

Union Calendar No. 428

111TH CONGRESS }
2d Session

HOUSE OF REPRESENTATIVES

{ REPORT
111-705

ACTIVITIES
OF THE
COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM
ONE HUNDRED ELEVENTH CONGRESS
FIRST AND SECOND SESSIONS
2009–2010



JANUARY 3, 2011.—Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

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COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

EDOLPHUS TOWNS, New York, *Chairman*

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, DC, January 3, 2011.

Hon. NANCY PELOSI,
Speaker of the House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: By direction of the Committee on Oversight and Government Reform, I submit herewith the committee's activities report for the 111th Congress.

Sincerely,

EDOLPHUS TOWNS,
Chairman.

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JANUARY 3, 2011.—Committed to the Committee of the Whole House on the State
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Mr. EDOLPHUS TOWNS, from the Committee on Oversight and
Government Reform, submitted the following

R E P O R T

ACTIVITIES OF THE HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM, 111TH CONGRESS, 1ST AND 2D SESSIONS, 2009 AND 2010

INTRODUCTION

During the 111th Congress, the Committee on Oversight and Government Reform held 164 oversight and legislative hearings. The Committee marked up 43 bills that passed the House of Representatives, 20 of which were enacted into law. The Committee also acted on 100 resolutions, 95 of those resolutions passed the House of Representatives; and, the Committee took up 75 postal naming bills, 14 of those bills passed the House and 54 were enacted into law.

In the 111th Congress, the Committee Chair was Representative Edolphus Towns (D-NY) and the Ranking Member was Representative Darrell E. Issa (R-CA). To carry out its duties as effectively as possible, the Committee at the beginning of the 111th Congress established the following five standing subcommittees:

- Subcommittee on Domestic Policy
- Subcommittee on Federal Workforce, Postal Service, and the District of Columbia
- Subcommittee on Government Management, Organization, and Procurement
- Subcommittee on Information Policy, Census, and National Archives

- Subcommittee on National Security and Foreign Affairs

This report describes the Committee's major oversight and legislative accomplishments, provides a chronological summary of Committee proceedings, and summarizes activities of the Subcommittees during the 111th Congress.

I. JURISDICTION, AUTHORITY, POWERS, AND DUTIES

The legislative jurisdiction of the Committee on Oversight and Government Reform includes the following areas, as set forth in House Rule X, clause 1:

Federal civil service, including intergovernmental personnel; and the status of officers and employees of the United States, including their compensation, classification, and retirement; Municipal affairs of the District of Columbia in general (other than appropriations); Federal paperwork reduction; Government management and accounting measures generally; Holidays and celebrations; Overall economy, efficiency, and management of government operations and activities, including federal procurement; National archives; Population and demography generally, including the Census; Postal service generally, including transportation of the mails; Public information and records; Relationship of the federal government to the states and municipalities generally; and Reorganizations in the executive branch of the government.

OVERSIGHT RESPONSIBILITIES

The oversight responsibilities of the Committee are set forth in House Rule X, clauses 2, 3, and 4. House Rule X, clause 2(b), provides that the Committee shall review and study on a continuing basis—

(A) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction;

(B) the organization and operation of Federal agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction;

(C) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction (whether or not a bill or resolution has been introduced with respect thereto); and

(D) future research and forecasting on subjects within its jurisdiction.

House Rule X, clause 3(i), provides that the Committee shall “review and study on a continuing basis the operation of Government activities at all levels with a view to determining their economy and efficiency.”

House Rule X, clause 4(c)(1), provides that the Committee shall:

(A) receive and examine reports of the Comptroller General of the United States and submit to the House such recommendations as it considers necessary or desirable in connection with the subject matter of the reports;

(B) evaluate the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(C) study intergovernmental relationships between the States and municipalities and between the United States and international organizations of which the United States is a member.

And House Rule X, clause 4(c)(2), provides that the Committee “may at any time conduct investigations of any matter without regard to clause 1, 2, 3, or this clause [of House Rule X] conferring jurisdiction over the matter to another standing committee.”

II. COMMITTEE ORGANIZATION AND MEMBERSHIP CHANGES

The Committee on Oversight and Government Reform organized on February 11, 2009, the Honorable Edolphus Towns (D-NY) presiding.

The Committee formed five standing subcommittees: the Subcommittee on Domestic Policy, chaired by Rep. Dennis Kucinich of Ohio; the Subcommittee on Federal Workforce, Postal Service and the District of Columbia, chaired by Rep. Stephen Lynch of Massachusetts; the Subcommittee on Government Management, Organization, and Procurement, chaired by Rep. Diane Watson of California; the Subcommittee on Information Policy, Census, and National Archives, chaired by Rep. William Lacy Clay of Missouri; and, the Subcommittee on National Security and Foreign Affairs, chaired by Rep. John Tierney of Massachusetts.

On February 11, 2009, the membership of the Committee included: Representatives Edolphus Towns (D-NY, Chairman), Paul Kanjorski (D-PA), Carolyn B. Maloney (D-NY), Elijah E. Cummings (D-MD), Dennis J. Kucinich (D-OH), John F. Tierney (D-MA), William Lacy Clay (D-MO), Diane E. Watson (D-CA), Stephen Lynch (D-MA), Jim Cooper (D-TN), Gerald E. Connolly (D-VA), Eleanor Holmes Norton (D-DC), Patrick J. Kennedy (D-RI), Danny K. Davis (IL), Chris Van Hollen (D-MD), Henry Cuellar (D-TX), Paul W. Hodes (D-NH), Christopher S. Murphy (D-CT), Peter Welch (D-VT), Bill Foster (D-IL), Jackie Speier (D-CA), Steve Driehaus (D-OH), Darrell E. Issa (R-CA, *Ranking Minority Member*), Dan Burton (R-IN), John McHugh (R-NY), John L. Mica (R-FL), Mark E. Souder (R-IN), Todd Russell Platts (R-PA), John J. Duncan, Jr. (R-TN), Michael R. Turner (R-OH), Lynn A. Westmoreland (R-GA), Patrick T. McHenry (R-NC), Brian P. Bilbray (R-CA), Jim Jordan (D-OH), Jeff Flake (R-AZ), Jeff Fortenberry (R-NE), Jason Chaffetz (R-UT), and Aaron Schock (R-IL).

A number of additions and changes occurred in the first and second sessions of the 111th Congress regarding the membership of the Committee and its subcommittees.

In the first session of the 111th Congress, Reps. Mike Quigley (D-IL) and Marcy Kaptur (D-OH) were elected to serve as Members of the Committee on Oversight and Government Reform on April 30, 2009, pursuant to H. Res. 381. On June 1, 2009, pursuant to Democratic Caucus rules, Rep. Kaptur was assigned to the Subcommittee on Domestic Policy to rank after Rep. Foster. Also on June 2, 2009, Rep. Quigley was assigned to the Subcommittee on National Security and Foreign Affairs filling the slot vacated by Rep. Kucinich to rank after Rep. Lynch, as well as the Subcommittee on Government Management, Organization, and Procurement to rank after Rep. Murphy.

On June 16, 2009, Rep. Todd Russell Platts (R-PA) resigned from the Committee on Oversight and Government Reform to serve as a Member of the House Committee on Armed Services, per H. Res. 548. The vacancy created by his resignation was filled by Rep. Blaine Luetkemeyer (R-MO), who was elected to serve as a Member of the Committee on Oversight and Government Reform pursuant to H. Res. 723, on September 9, 2009. He was assigned Subcommittees at the request of Ranking Republican Member Darrell E. Issa at the Committee's business meeting of September 10, 2009.

On September 21, 2009, Rep. John M. McHugh (R-NY) resigned from the House of Representatives after being confirmed by the Senate as the U.S. Army Secretary on September 17, 2009. The vacancy created by his resignation was filled by Rep. Anh "Joseph" Cao (R-LA), elected to serve as a Member of the Committee on Oversight and Government Reform pursuant to H. Res. 807 on October 7, 2009. He was assigned Subcommittees at the request of Ranking Republican Member Darrell E. Issa and pursuant to Committee Rule 8.

On October 15, 2009, Rep. Judy Chu (D-CA) was elected to serve as a Member of the Committee on Oversight and Government Reform, pursuant to H. Res. 834.

On October 29, 2009, Rep. Henry Cuellar (D-TX) was assigned to the Subcommittee on Information Policy, Census, and National Archives replacing Rep. Paul E. Kanjorski (D-PA). This change was approved by motion at the full Committee business meeting held on October 29, 2009, pursuant to Committee Rule 8.

In the second session of the 110th Congress, Rep. Judy Chu was appointed to serve, pursuant to Committee Rule 8, and in consultation with the affected members, to the Subcommittee on Information Policy, replacing Rep. Diane E. Watson, and the Subcommittee on National Security, replacing Rep. Henry Cuellar. This action was approved at the full Committee's business meeting held on March 4, 2010.

Rep. Mark E. Souder (R-IN) resigned from the U.S. House of Representatives effective Friday, May 21, 2010, per a Communication printed in the Thursday, May 20, 2010, *Congressional Record*. The vacancy created by his resignation was filled by Rep. Bill Shuster (R-PA), who was elected to serve as a Member of the Committee on Oversight and Government Reform on May 28, 2010, pursuant to H. Res. 1415. Rep. Shuster was assigned to the Subcommittee on Domestic Policy and the Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, at the request of Rep. Chaffetz at the Committee on Oversight and Government Reform Business Meeting of June 17, 2010, pursuant to Committee Rule 8.

III. RULES OF THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

RULE 1—APPLICATION OF RULES

Except where the terms "full committee" and "subcommittee" are specifically referred to, the following rules shall apply to the Committee on Oversight and Government Reform and its subcommittees as well as to the respective chairs. [See House Rule XI, 1.]

RULE 2—MEETINGS

The regular meetings of the full Committee shall be held on the second Thursday of each month at 10 a.m., when the House is in session.

The chairman is authorized to dispense with a regular meeting or to change the date thereof, and to call and convene additional meetings, when circumstances warrant. A special meeting of the Committee may be requested by members of the Committee following the provisions of House Rule XI, clause 2(c)(2). Subcommittees shall meet at the call of the subcommittee chairs. Every member of the Committee or the appropriate subcommittee, unless prevented by unusual circumstances, shall be provided with a memorandum at least three calendar days before each meeting or hearing explaining (1) the purpose of the meeting or hearing; and (2) the names, titles, background and reasons for appearance of any witnesses. The ranking minority member shall be responsible for providing the same information on witnesses whom the minority may request. [See House Rule XI, 2 (b) and (c).]

RULE 3—QUORUMS

(a) A majority of the members of the Committee shall form a quorum, except that two members shall constitute a quorum for taking testimony and receiving evidence, and one third of members shall form a quorum for taking any action other than for which the presence of a majority of the Committee is otherwise required. If the chairman is not present at any meeting of the committee or subcommittee, the ranking member of the majority party on the Committee or subcommittee who is present shall preside at that meeting.

(b) The chairman of the Committee may, at the request of a subcommittee chair, make a temporary assignment of any member of the Committee to such subcommittee for the purpose of constituting a quorum at and participating in any public hearing by such subcommittee to be held outside of Washington, DC. Members appointed to such temporary positions shall not be voting members. The chairman shall give reasonable notice of such temporary assignment to the ranking members of the Committee and subcommittee. [See House Rule XI, 2(h).]

RULE 4—COMMITTEE REPORTS

Bills and resolutions approved by the Committee shall be reported by the chairman following House Rule XIII, clauses 2–4. A proposed report shall not be considered in subcommittee or full Committee unless the proposed report has been available to the members of such subcommittee or full Committee for at least three calendar days (excluding Saturdays, Sundays, and legal holidays, unless the House is in session on such days) before consideration of such proposed report in subcommittee or full Committee. Any report will be considered as read if available to the members at least 24 hours before consideration, excluding Saturdays, Sundays, and legal holidays unless the House is in session on such days. If hearings have been held on the matter reported upon, every reasonable effort shall be made to have such hearings printed and available to the members of the subcommittee or full Committee before the

consideration of the proposed report in such subcommittee or full Committee. Every investigative report shall be approved by a majority vote of the Committee at a meeting at which a quorum is present. Supplemental, minority, or additional views may be filed following House Rule XI, clause 2(l) and Rule XIII, clause 3(a)(1). The time allowed for filing such views shall be three calendar days, beginning on the day of notice, but excluding Saturdays, Sundays, and legal holidays (unless the House is in session on such a day), unless the Committee agrees to a different time, but agreement on a shorter time shall require the concurrence of each member seeking to file such views. An investigative or oversight report may be filed after sine die adjournment of the last regular session of Congress, provided that if a member gives timely notice of intention to file supplemental, minority or additional views, that member shall be entitled to not less than seven calendar days in which to submit such views for inclusion with the report. Only those reports approved by a majority vote of the Committee may be ordered printed, unless otherwise required by the Rules of the House of Representatives.

RULE 5—PROXY VOTES

In accordance with the Rules of the House of Representatives, members may not vote by proxy on any measure or matter before the Committee or any subcommittee. [See House Rule XI, 2(f).]

RULE 6—RECORD VOTES

A record vote of the members may be had upon the request of any member upon approval of a one-fifth vote of the members present.

RULE 7—RECORD OF COMMITTEE ACTIONS

The Committee staff shall maintain in the Committee offices a complete record of Committee actions from the current Congress including a record of the roll call votes taken at Committee business meetings. The original records, or true copies thereof, as appropriate, shall be available for public inspection whenever the Committee offices are open for public business. The staff shall assure that such original records are preserved with no unauthorized alteration, additions, or defacement. [See House Rule XI, 2(e).]

RULE 8—SUBCOMMITTEES; REFERRALS

(a) There shall be five standing subcommittees with appropriate party ratios. The chairman shall assign members to the subcommittees. Minority party assignments shall be made only with the concurrence of the ranking minority member. The subcommittees shall have the following fixed jurisdictions:

(1) The Subcommittee on Domestic Policy—Oversight jurisdiction over domestic policies, including matters relating to energy, labor, education, criminal justice, and the economy. The Subcommittee also has legislative jurisdiction over the Office of National Drug Control Policy;

(2) The Subcommittee on Federal Workforce, Postal Service, and the District of Columbia—Federal employee issues, the municipal affairs (other than appropriations) of the District of

Columbia, and the Postal Service. The Subcommittee's jurisdiction includes postal namings, holidays, and celebrations;

(3) The Subcommittee on Government Management, Organization, and Procurement—The management of government operations, reorganizations of the executive branch, and federal procurement;

(4) The Subcommittee on Information Policy, Census, and National Archives—Public information and records laws such as the Freedom of Information Act, the Presidential Records Act, and the Federal Advisory Committee Act, the Census Bureau, and the National Archives and Records Administration; and

(5) The Subcommittee on National Security and Foreign Affairs—Oversight jurisdiction over national security, homeland security, and foreign affairs.

(b) Bills, resolutions, and other matters shall be expeditiously referred by the chairman to subcommittees for consideration or investigation in accordance with their fixed jurisdictions. Where the subject matter of the referral involves the jurisdiction of more than one subcommittee or does not fall within any previously assigned jurisdiction, the chairman shall refer the matter as he may deem advisable. Bills, resolutions, and other matters referred to subcommittees may be reassigned by the chairman when, in his judgment, the subcommittee is not able to complete its work or cannot reach agreement therein. In a subcommittee having an even number of members, if there is a tie vote with all members voting on any measure, the measure shall be placed on the agenda for full Committee consideration as if it had been ordered reported by the subcommittee without recommendation. This provision shall not preclude further action on the measure by the subcommittee.

RULE 9—EX OFFICIO MEMBERS

The chairman and the ranking minority member of the Committee shall be ex officio members of all subcommittees. They are authorized to vote on subcommittee matters; but, unless they are regular members of the subcommittee, they shall not be counted in determining a subcommittee quorum other than a quorum for taking testimony.

RULE 10—STAFF

Except as otherwise provided by House Rule X, clauses 6, 7 and 9, the chairman of the full Committee shall have the authority to hire and discharge employees of the professional and clerical staff of the full Committee and of subcommittees.

RULE 11—STAFF DIRECTION

Except as otherwise provided by House Rule X, clauses 6, 7 and 9, the staff of the Committee shall be subject to the direction of the chairman of the full Committee and shall perform such duties as he may assign.

RULE 12—HEARING DATES AND WITNESSES

(a) Each subcommittee of the Committee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the full Committee on any measure or matter referred to it.

(b) No subcommittee of the Committee may meet or hold a hearing at the same time as a meeting or hearing of the Committee.

(c) The chair of each subcommittee shall set hearing and meeting dates only with the approval of the chairman with a view toward assuring the availability of meeting rooms and avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings.

(d) Each subcommittee chair shall notify the chairman of any hearing plans at least two weeks before the date of commencement of the hearings, including the date, place, subject matter, and the names of witnesses, willing and unwilling, who would be called to testify, including, to the extent the chair is advised thereof, witnesses whom the minority members may request.

(e) Witnesses appearing before the Committee shall so far as practicable, submit written statements at least 24 hours before their appearance and, when appearing in a non-governmental capacity, provide a curriculum vitae and a listing of any Federal Government grants and contracts received in the previous fiscal year. [See House Rules XI, 2 (g)(3), (g)(4), (j) and (k).]

RULE 13—OPEN MEETINGS

Meetings for the transaction of business and hearings of the Committee shall be open to the public or closed in accordance with Rule XI of the House of Representatives. [See House Rules XI, 2 (g) and (k).]

RULE 14—FIVE-MINUTE RULE

(a) A Committee member may question a witness only when recognized by the chairman for that purpose. In accordance with House Rule XI, clause 2(j)(2), each Committee member may request up to five minutes to question a witness until each member who so desires has had such opportunity. Until all such requests have been satisfied, the chairman shall, so far as practicable, recognize alternately based on seniority of those majority and minority members present at the time the hearing was called to order and others based on their arrival at the hearing. After that, additional time may be extended at the direction of the chairman.

(b) The chairman, with the concurrence of the ranking minority member, or the Committee by motion, may permit an equal number of majority and minority members to question a witness for a specified, total period that is equal for each side and not longer than thirty minutes for each side.

(c) The chairman, with the concurrence of the ranking minority member, or the Committee by motion, may permit Committee staff of the majority and minority to question a witness for a specified, total period that is equal for each side and not longer than thirty minutes for each side.

(d) Nothing in paragraph (b) or (c) affects the rights of a Member (other than a Member designated under paragraph (b)) to question a witness for 5 minutes in accordance with paragraph (a) after the

questioning permitted under paragraph (b) or (c). In any extended questioning permitted under paragraph (b) or (c), the chairman shall determine how to allocate the time permitted for extended questioning by majority members or majority Committee staff and the ranking minority member shall determine how to allocate the time permitted for extended questioning by minority members or minority committee staff. The chairman or the ranking minority member, as applicable, may allocate the time for any extended questioning permitted to staff under paragraph (c) to members.

RULE 15—INVESTIGATIVE HEARING PROCEDURES

Investigative hearings shall be conducted according to the procedures in House Rule XI, clause 2(k). All questions put to witnesses before the Committee shall be relevant to the subject matter before the Committee for consideration, and the chairman shall rule on the relevance of any questions put to the witnesses.

RULE 16—STENOGRAPHIC RECORD

A stenographic record of all testimony shall be kept of public hearings and shall be made available on such conditions as the chairman may prescribe.

RULE 17—AUDIO AND VISUAL COVERAGE OF COMMITTEE PROCEEDINGS

(a) An open meeting or hearing of the Committee or a subcommittee may be covered, in whole or in part, by television broadcast, radio broadcast, Internet broadcast, and still photography, unless closed subject to the provisions of House Rule XI, clause 2(g). Any such coverage shall conform with the provisions of House Rule XI, clause 4.

(b) Use of the Committee Broadcast System shall be fair and nonpartisan, and in accordance with House Rule XI, clause 4(b), and all other applicable rules of the House of Representatives and the Committee on Government Reform. Members of the committee shall have prompt access to a copy of coverage by the Committee Broadcast System, to the extent that such coverage is maintained.

(c) Personnel providing coverage of an open meeting or hearing of the Committee or a subcommittee by Internet broadcast, other than through the Committee Broadcast System, shall be currently accredited to the Radio and Television Correspondents' Galleries.

RULE 18—COMMITTEE WEBSITE

(a) The chairman shall maintain an official website on behalf of the Committee for the purpose of furthering the Committee's legislative and oversight responsibilities, including communicating information about the Committee's activities to Committee members and other members of the House.

(b) The Chairman shall make the record of the votes on any question on which a record vote is demanded in the full Committee available on the Committee's official website not later than 3 legislative days after such vote is taken. Such record shall identify or describe the amendment, motion, order, or other proposition, the name of each member voting and for each member voting against such amendment, motion, order, or proposition, and the names of the Members voting present.

(c) The ranking minority member is authorized to maintain a similar official website on behalf of the Committee minority for the same purpose, including communicating information about the activities of the minority to Committee members and other members of the House.

RULE 19—ADDITIONAL DUTIES OF CHAIRMAN

The chairman of the full Committee shall:

(a) Make available to other committees the findings and recommendations resulting from the investigations of the Committee or its subcommittees as required by House Rule X, clause 4(c)(2);

(b) Direct such review and studies on the impact or probable impact of tax policies affecting subjects within the Committee's jurisdiction as required by House Rule X, clause 2(c);

(c) Submit to the Committee on the Budget views and estimates required by House Rule X, clause 4(f), and to file reports with the House as required by the Congressional Budget Act;

(d) Authorize and issue subpoenas as provided in House Rule XI, clause 2(m), in the conduct of any investigation or activity or series of investigations or activities within the jurisdiction of the Committee;

(e) Prepare, after consultation with subcommittee chairs and the minority, a budget for the Committee which shall include an adequate budget for the subcommittees to discharge their responsibilities;

(f) Make any necessary technical and conforming changes to legislation reported by the committee upon unanimous consent; and

(g) The chairman is directed to offer a motion under clause 1 of Rule XXII of the Rules of the House whenever the chairman considers it appropriate.

RULE 20—SUBJECTS OF STAMPS

The Committee has adopted the policy that the determination of the subject matter of commemorative stamps and new semi-postal issues is properly is for consideration by the Postmaster General and that the Committee will not give consideration to legislative proposals specifying the subject matter of commemorative stamps and new semi-postal issues. It is suggested that recommendations for the subject matter of stamps be submitted to the Postmaster General.

RULE 21—PANELS AND TASK FORCES

(a) The chairman of the Committee is authorized to appoint panels or task forces to carry out the duties and functions of the Committee.

(b) The chairman and ranking minority member of the Committee may serve as ex-officio members of each panel or task force.

(c) The chairman of any panel or task force shall be appointed by the chairman of the Committee. The ranking minority member shall select a ranking minority member for each panel or task force.

(d) The House and Committee rules applicable to subcommittee meetings, hearings, recommendations, and reports shall apply to

the meetings, hearings, recommendations, and reports of panels and task forces.

(e) No panel or task force so appointed shall continue in existence for more than six months. A panel or task force so appointed may, upon the expiration of six months, be reappointed by the chairman.

RULE 22—DEPOSITION AUTHORITY

The chairman, upon consultation with the ranking minority member, may order the taking of depositions, under oath and pursuant to notice or subpoena.

Notices for the taking of depositions shall specify the date, time, and place of examination. Depositions shall be taken under oath administered by a member or a person otherwise authorized to administer oaths.

Consultation with the ranking minority member shall include three business day's written notice before any deposition is taken. All members shall also receive three business day's written notice that a deposition has been scheduled.

Witnesses may be accompanied at a deposition by counsel to advise them of their rights. No one may be present at depositions except members, Committee staff designated by the chairman or ranking minority member, an official reporter, the witness, and the witness's counsel. Observers or counsel for other persons, or for agencies under investigation, may not attend.

A deposition shall be conducted by any member or staff attorney designated by the chairman or ranking minority member. When depositions are conducted by Committee staff attorneys, there shall be no more than two Committee staff attorneys permitted to question a witness per round. One of the Committee staff attorneys shall be designated by the chairman and the other by the ranking minority member. Other Committee staff members designated by the chairman or ranking minority member may attend, but may not pose questions to the witness.

Questions in the deposition shall be propounded in rounds, alternating between the majority and minority. A single round shall not exceed 60 minutes per side, unless the members or staff attorneys conducting the deposition agree to a different length of questioning. In each round, a member or Committee staff attorney designated by the chairman shall ask questions first, and the member or Committee staff attorney designated by the ranking minority member shall ask questions second.

The chairman may rule on any objections raised during a deposition. If a member of the Committee appeals in writing the ruling of the chairman, the appeal shall be preserved for Committee consideration. A witness that refuses to answer a question after being directed to answer by the chairman may be subject to sanction, except that no sanctions may be imposed if the ruling of the chairman is reversed on appeal.

Committee staff shall ensure that the testimony is either transcribed or electronically recorded or both. If a witness's testimony is transcribed, the witness or the witness's counsel shall be afforded an opportunity to review a copy. No later than five days thereafter, the witness may submit suggested changes to the chairman. Committee staff may make any typographical and technical

changes requested by the witness. Substantive changes, modifications, clarifications, or amendments to the deposition transcript submitted by the witness must be accompanied by a letter signed by the witness requesting the changes and a statement of the witness's reasons for each proposed change. Any substantive changes, modifications, clarifications, or amendments shall be included as an appendix to the transcript conditioned upon the witness signing the transcript.

The individual administering the oath, if other than a member, shall certify on the transcript that the witness was duly sworn. The transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall be filed, together with any electronic recording, with the clerk of the Committee in Washington, DC. Depositions shall be considered to have been taken in Washington, DC, as well as the location actually taken once filed there with the clerk of the Committee for the Committee's use. The chairman and the ranking minority member shall be provided with a copy of the transcripts of the deposition at the same time.

The chairman and ranking minority member shall consult regarding the release of depositions. If either objects in writing to a proposed release of a deposition or a portion thereof, the matter shall be promptly referred to the Committee for resolution.

A witness shall not be required to testify unless the witness has been provided with a copy of the Committee's rules.

IV. OVERSIGHT ACCOMPLISHMENTS

Committee on Oversight and Government Reform Investigative Activities and Accomplishments 2009–2010

The Committee on Oversight and Government Reform is the principal oversight committee in the United States House of Representatives, with jurisdiction over "any matter." During the 111th Congress, the Committee conducted oversight and investigations focused on some of the most pressing issues facing the nation, including the national financial crisis and implementation of the economic stimulus. These activities exposed waste, fraud, and abuse involving taxpayer dollars; helped make the federal government more effective and efficient; and improved consumer protection by exposing improper and illegal activities in the private sector.

The Committee conducted major inquiries involving numerous federal agencies, including the Departments of Commerce, Defense, Energy, Homeland Security, Health and Human Services (including the Food and Drug Administration, the Centers for Disease Control and Prevention, and the National Institutes of Health), Interior (including the Minerals Management Service), State, Transportation (including the National Highway Traffic Safety Administration), Veterans Affairs, and the General Services Administration, Office of Personnel Management, Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve, Federal Trade Commission, Office of Comptroller of the Currency, Securities Exchange Commission, and the Federal Communications Commission.

In addition, the Committee conducted major inquiries involving private sector entities, including companies in the following sectors: commercial banking, investment banking, mortgage servicing, cred-

it rating, insurance, defense contracting, oil drilling and oil field services, pharmaceuticals, computer software, telecommunications, and automobile manufacturing.

Under the House Rules, the Committee Chairman is empowered to issue subpoenas to compel the appearance of witnesses and the production of documents and other information. Recognizing the importance of responsible and judicious use of the subpoena power, Chairman Towns found it necessary to issue only seven subpoenas during the 111th Congress. All subpoenas were narrowly focused and issued only when absolutely necessary to compel the production of documents essential to an investigation.

Following are highlights of the Committee's activities in the 111th Congress.

The Financial Crisis

The financial crisis that began in 2007 and reached its zenith in September 2008 with the collapse of Lehman Brothers and American International Group (AIG), had extraordinary repercussions that are still very much being felt by Americans everywhere. Moreover, the Wall Street excesses exposed by the financial collapse and the federal bailout initiated in the Fall of 2008, became a lightning rod for citizen anger all across the country as unemployment skyrocketed and people began losing their homes to foreclosure.

Against this background, the Committee began an extensive investigation of the causes of the financial collapse and the decision-making behind the federal bailout, in an attempt to determine how best to prevent similar problems in the future. The Committee's investigation focused on two major examples to illustrate these issues:

- The collapse and federal rescue of AIG, because it was the largest single recipient of bailout money and was involved in the broadest spectrum of financial services, including insurance, banking, securities lending, and trading in credit default swaps; and
- Bank of America's acquisition of Merrill-Lynch, because it involved two of the largest and best known financial services companies in the world, and included allegations of securities violations, trading on insider information, conflicts of interest, and unseen decision-making by the Treasury Department, the Federal Reserve Board of Governors, and the Federal Reserve Bank of New York.

Following extensive hearings, the review of more than 500,000 pages of documents, and unprecedented subpoenas issued to the Federal Reserve Board of Governors, the Committee was able to expose the inner workings of AIG prior to the collapse; the decision-making that determined the nature, extent, and timing of the federal bailout of AIG and Bank of America; and information that produced subsequent enforcement action by the SEC.

A direct, tangible result of the Committee's investigation of the Bank of America/Merrill Lynch merger and bailout, was to recover \$424 million of taxpayer money from Bank of America in connection with the so-called ring-fencing agreement with the Treasury Department. Until the Committee's investigation, Bank of America had strongly resisted compensating Treasury for the financial backing it provided to the bank.

THE COLLAPSE AND FEDERAL RESCUE OF AIG

At the beginning of 2008, AIG was the world's largest insurance company, with 116,000 employees, 74 million clients, operations in 130 countries, and more than \$1 trillion in assets. Moreover, it was the most profitable property and casualty insurance company in the world.

AIG suddenly collapsed in September 2008 under the weight of bad bets made under its Securities Lending Program and by its AIG Financial Products (AIGFP) subsidiary, which tied the company to insuring and purchasing mortgage-backed securities. In order to prevent AIG from entering bankruptcy and to restore liquidity to the frozen credit markets, the Treasury Department and the Federal Reserve Bank of New York (FRBNY) created a rescue package totaling over \$180 billion in stock purchases and lines of credit. The rescue began on September 16, 2008, with an initial \$85 billion infusion and an immediate management takeover by FRBNY, with additional cash infusions over the following months.

In return for this federal funding, the Treasury Department took a 79.9 percent ownership stake in AIG and three trustees were appointed by the FRBNY to oversee the government's investment. Furthermore, upon AIG's receipt of its initial injection of federal funds, Mr. Edward M. Liddy, a former chief executive of Allstate and a member of the Board of Directors of Goldman Sachs, was appointed CEO.

On April 2, 2009, the Committee held its first hearing on the collapse and federal rescue of AIG. The hearing featured the testimony of Maurice "Hank" Greenberg, former Chairman and CEO of the company.

Mr. Greenberg led AIG for almost 40 years, from the late sixties until 2004, when he was forced out by the AIG Board of Directors as part of a settlement agreement with New York Attorney General Elliot Spitzer, amid allegations of accounting irregularities and securities law violations. Under Greenberg's leadership, AIG grew from a relatively modest-sized company to become the largest insurer in the United States and the 18th largest company in the world.

Mr. Greenberg also oversaw the creation of AIGFP, an AIG unit that pioneered the creation and sale of credit defaults swaps (CDSs) on complex derivative products such as collateralized debt obligations (CDOs) backed by mortgages. Within financial markets, CDSs operated as insurance policies, which other financial institutions purchased to hedge their own investments in CDOs and other mortgage-backed securities. When the overheated real estate market collapsed in 2007 and 2008 and homeowners began to default on their mortgages, the value of CDOs fell accordingly. As the "insurer" of these CDOs, AIGFP was subject to billions of dollars in payments. The major credit rating agencies all downgraded AIG, which prompted a downward spiral of margin calls and further credit downgrades.

In his testimony before the committee, Mr. Greenberg defended his leadership of AIG and criticized the federal bailout. Mr. Greenberg told the Committee that the government's expenditure of billions of dollars bailing out AIG was a waste of taxpayer money. In his view, the government should have let AIG file for bankruptcy,

rather than taking over the company. In addition, he testified that the new management the government had installed at AIG was not qualified to run the company. Mr. Greenberg was also critical of the government's plan to wind-down the company and sell off its more successful lines of business. Mr. Greenberg testified that, "Fire-sale prices will bring taxpayers, who now own almost eighty percent of AIG, only pennies on the dollar for their investment in AIG." Mr. Greenberg suggested that a better approach would be to provide temporary liquidity to the company, and "wall-off" AIGFP and guarantee its debt, while the company wound-down its book of CDSs.

This hearing set the stage for future testimony by AIG's government-appointed CEO, the AIG Trustees appointed by FRBNY, and the Secretary of the Treasury.

AIG: WHERE IS THE TAXPAYER'S MONEY GOING?

On May 13, 2009, the Committee held the second in a series of hearings on the collapse and federal rescue of AIG. The new CEO, Mr. Edward M. Liddy, and the AIG trustees, Ms. Jill M. Considine, Mr. Chester B. Feldberg, and Mr. Douglas L. Foshee, testified at the hearing as the Committee attempted to assess whether the taxpayer's investment in AIG was being adequately protected. Up until this hearing, the Congress and the public were generally unaware that trustees had been appointed to oversee the taxpayers' investment in AIG, and no one outside the New York Federal Reserve Bank and AIG understood how the trustees were carrying out their duties.

While Mr. Liddy assured the Committee that progress was being made to reorganize AIG and recover the taxpayers' investment, he told the Committee that, although the systemic risk AIG posed to the global economy had been reduced, it had not been eliminated. He also testified that AIG's management was focused on reorganizing the company and unwinding the CDSs sold by AIGFP.

Mr. Liddy told the Committee that his ultimate goal was to repay the federal investment as soon as possible. In that regard, Chairman Towns' investigation uncovered a strategic plan, referred to as Project Destiny, which had been developed by AIG's new management and approved by the AIG Trustees and the Board of Directors. Project Destiny was described as a multi-year roadmap for restructuring the Company. However, AIG resisted providing specific details of the plan to Congress and the American people, who now had a considerable financial interest in the company's future.

AIG's failure to provide the Committee with details of its restructuring plan under Project Destiny raised serious questions as to how AIG would remain accountable to the taxpayers. This issue was exacerbated by controversy over: (1) the company's decision to pay retention bonuses to employees of AIGFP, the unit that was responsible for many of the problems which led to the company's collapse; (2) the billions of dollars in taxpayer funds funneled through the company to certain AIG credit default swap and securities-lending counterparties, including domestic and foreign banks, some of which had also received separate bailout funds; and (3) the revelation that AIG may have paid public relations executives a signifi-

cant amount of taxpayer dollars to finance a campaign against critics of the AIG bailout and the company's restructuring efforts.

On May 22, 2009, just days after the hearing and amid scrutiny over AIG's use of taxpayer funds, Mr. Liddy resigned as AIG's CEO. Furthermore, the concerns expressed by Chairman Towns and other Committee members over AIG's decision to pay retention bonuses to AIGFP employees eventually resulted in the recovery of at least \$19 million dollars in bonus payments, and increased scrutiny over AIG's executive compensation.

THE AIG COUNTERPARTIES

Despite the New York Fed's \$85 billion infusion in September 2008, AIG continued to need billions of dollars each week to meet collateral calls and make payments to its CDS counterparties. By November 5, 2008, AIG had already run through about \$61 billion of the initial \$85 billion. The Treasury Department, the Federal Reserve Board, and the NYFRB concluded that the initial \$85 billion had not solved the AIG liquidity crisis and that additional measures were necessary.

On November 10, 2008, the NYFRB created Maiden Lane III, a limited liability corporation, to purchase the CDOs underlying the CDSs from counterparties of AIG to allow cancellation of the CDS contracts. The Federal Reserve Board authorized the NYFRB to provide up to \$30 billion to pay the AIG counterparties.

The CDS counterparties were effectively paid at par, i.e., 100 percent of the face value of the underlying subprime-linked securities. Many observers, including Members of Congress and former AIG CEO Hank Greenberg, questioned the amount of these counterparty payments, observing that this was far more than the counterparties would have received had AIG filed for bankruptcy. Critics argue that the federal government should have been more aggressive in attempting to negotiate concessions from the counterparties.

The public controversy that erupted over payment of the counterparties was exacerbated when the Federal Reserve Board initially refused to disclose the names of the counterparties and the amounts the counterparties were paid. The furor increased when, under Congressional pressure, when it was finally discovered that the counterparties included some of the largest banks and investment banking firms in the world, including Societe Generale, Goldman Sachs, Merrill Lynch, Deutsche Bank, Wachovia, and Bank of America.

Chairman Towns launched an investigation of the decision to pay AIG's counterparties 100 cents on the dollar and the failure to disclose the names of the counterparties and the amounts paid to each. On January 27, 2010, the Committee held a hearing to examine this issue. At the hearing, Treasury Secretary Geithner testified that the government "did not act to protect individual institutions" but that it acted because the "consequences of AIG failing would have been catastrophic for our economy and for American families and businesses." Secretary Geithner also claimed that if AIG's counterparties had not been paid all of the money they were owed, AIG's credit rating would have been downgraded and the company would have collapsed.

The AIG investigation brought to light for the first time the full story of the collapse and federal bailout of AIG. The issues raised at these hearings and others examining the financial crisis provided insight for Congress to develop and enact comprehensive financial reform legislation. On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act.

THE BANK OF AMERICA-MERRILL LYNCH INVESTIGATION

At the height of the financial crisis in September 2008, Bank of America announced it was buying financial services giant Merrill Lynch for \$50 billion. When this transaction was announced, and for the following three months, there was no mention of federal funds being involved in the deal and no mention of any potential problems with the transaction.

In January 2009, the public learned for the first time that the federal government had provided Bank of America with a \$20 billion taxpayer bailout after Bank of America's CEO called then-Secretary of the Treasury Paulson to say he might back out of the Merrill acquisition. The \$20 billion was provided under the Troubled Asset Relief Program (TARP).

In April of 2009, Chairman Towns, in conjunction with Domestic Policy Subcommittee Chairman Kucinich, launched an investigation to examine the events surrounding Bank of America's December acquisition of Merrill Lynch and the secret decision to provide the company with billions of dollars in federal financial assistance. In the months that followed this bailout, information began to trickle out about how and why this ostensibly private transaction had turned into a federal bailout.

The Committee's investigation spanned more than eight months and included five hearings, extensive interviews with top Bank of America executives, and the review of over 500,000 internal Bank of America, Treasury Department, and Federal Reserve documents, many of which were obtained by Chairman Towns under subpoena. The circumstances surrounding Bank of America's purchase of Merrill, and the subsequent federal bailout were also investigated by the Securities and Exchange Commission (SEC), the New York State Attorney General's office, and reportedly by the Department of Justice.

This complex investigation was centered on two main issues:

1. Did the federal government force Bank of America to go through with the Merrill Lynch acquisition or did Bank of America's then-CEO, Ken Lewis, manipulate the federal government to obtain taxpayer funding for the deal?
2. Did Bank of America's management fail to disclose to shareholders and its own Board of Directors the extent of Merrill Lynch's deteriorating financial condition prior to consummating the deal?

Bank of America Purchases Merrill Lynch

On December 5, 2008, at the urging of Bank of America CEO Ken Lewis, Bank of America shareholders approved the bank's acquisition of Merrill Lynch.

Although neither the public nor Bank of America shareholders knew it at the time, the Committee found that Bank of America's CFO, Joseph Price, asked then-General Counsel Timothy Mayopoulos four days before the shareholder vote whether Bank of America had a legal basis for backing out of the Merrill deal by invoking the "material adverse change" clause (referred to as "the MAC") in the merger agreement due to mounting financial losses at Merrill. Mr. Mayopoulos informed Mr. Price that Bank of America did not have a basis for invoking the MAC.

Nine days later, Mr. Mayopoulos was fired and replaced by Brian Moynihan, a Bank of America business executive who had not practiced law in over a decade. When Mr. Moynihan was asked if he believed Bank of America had a legal basis for invoking the MAC and backing out of the Merrill deal, he determined there was such a legal basis. Despite Mr. Moynihan's conclusion that the financial losses were so material as to permit exercise of the MAC, these increasing losses were not disclosed to shareholders before the vote to approve the deal.

On December 17, 2008, Mr. Lewis called then-Treasury Secretary Hank Paulson to state that he believed Bank of America had a MAC. The Committee's investigation revealed that Lewis' phone call to Secretary Paulson is the first time the government was made aware of any problems with the Bank of America-Merrill deal and demonstrated that it was Bank of America that involved the government in the transaction; it was not the government that sought to intervene.

During the telephone conversation between Mr. Lewis and Mr. Paulson, Paulson indicated to Lewis that the "systemic risk" caused by a collapse of the merger could be catastrophic to the U.S. economy, and invited Lewis to Washington, D.C., for a meeting with himself and Federal Reserve Board (Fed) Chairman Ben Bernanke. Lewis asserted that at this meeting, Paulson and Bernanke stressed the harm that could be caused to the financial system if the Merrill transaction did not proceed.

The Committee obtained by subpoena a Federal Reserve email in which Mr. Bernanke stated he believed Mr. Lewis' assertion that Bank of America was considering backing out of the Merrill deal was a "bargaining chip."

On December 22, 2008, Lewis informed the Bank of America Board of Directors of that: (1) the Treasury Department and the Federal Reserve believed that failure to complete the merger would result in systemic risk to the financial system; (2) Treasury and the Fed would remove Bank of America's Board and management if Bank of America backed out of the deal; and (3) Treasury and the Fed had committed to provide financial assistance to Bank of America.

Prior to testifying before the Committee, Bank of America CEO Ken Lewis stated that: (1) he felt pressured by the government to go ahead with the Merrill Lynch acquisition; and (2) he was told by the government not to disclose information about Merrill losses and federal financial assistance.

Chairman Towns, in conjunction with Domestic Policy Subcommittee Chairman Kucinich, held a series of five hearings to examine the events surrounding Bank of America's acquisition of Merrill Lynch. The Committee received testimony from then-CEO

Ken Lewis, Chairman of the Federal Reserve Board of Governors Ben Bernanke, former Secretary of the Treasury Hank Paulson, Bank of America senior executive Brian Moynihan, former Bank of America General Counsel Tim Mayopoulos, selected members of the Bank of America Board of Directors, FDIC Chairman Sheila Bair, and the SEC's head of enforcement.

The Committee's investigation and hearings revealed that:

- The federal government did not force Bank of America to consummate the Merrill Lynch acquisition (Mr. Lewis admitted this fact in his testimony, supported by Mr. Bernanke and Mr. Paulson).
- No government official directed Mr. Lewis or Bank of America not to disclose information regarding Merrill's worsening financial condition or a need for federal funding.
- There was no evidence that Bank of America's management fully disclosed to its Board of Directors or its shareholders the full extent of Merrill Lynch's worsening financial condition prior to the vote to approve the acquisition.
- There was no evidence of any specific commitment for federal financial assistance until January 2009.

The Committee's extensive investigation of the Bank of America-Merrill Lynch deal resulted in an unprecedented view of the facts, circumstances, and deliberations attendant to one of the largest bailouts of the financial crisis and substantially contributed to the following tangible results:

• **Chairman Towns' Efforts Result in \$424 Million Payment to the U.S. Treasury**

In January 2009, Bank of America announced that it had completed the acquisition of Merrill Lynch. In conjunction with that announcement, the bank also disclosed for the first time that it had obtained \$20 billion in federal funding to help complete the deal and another \$118 billion in financial guarantees against potential losses associated with Merrill Lynch toxic assets, such as mortgage-backed securities. Bank of America touted this "ring-fencing" agreement to investors in a press release and a conference call with Wall Street analysts.

Six months later, as its financial situation dramatically improved, Bank of America refused to pay any fees to the government in compensation for this ring-fencing agreement, arguing that it had never actually used any of the money. However, it was clear this Treasury backstop had substantially contributed to Bank of America's recovery by reassuring investors that toxic assets would not undermine the company's finances. Moreover, documents obtained by Chairman Towns in the course of the Committee's investigation indicated that Bank of America had actively sought this financial protection from the Treasury Department.

Under direct pressure from Chairman Towns, in September 2009 Bank of America agreed to pay \$424 million in compensation to the Treasury Department for the protection provided by the ring-fencing agreement.

• **Facts Uncovered by the Committee Helped the SEC Recover \$150 Million from Bank of America**

In August of 2009, the SEC and Bank of America proposed a settlement to a federal judge in New York, under which Bank of America would pay a \$33 million fine for failing to disclose em-

employee bonuses and financial losses at Merrill Lynch prior to shareholder approval of the Bank of America-Merrill transaction.

On September 14, 2009, Judge Jed S. Rakoff rejected this settlement and ordered the SEC and Bank of America to prepare for trial. In his ruling, Judge Rakoff stated, “the proposed Consent Judgment is inadequate . . . the fine . . . is also inadequate, in that \$33 million is a trivial penalty for a false statement that materially infected a multi-billion-dollar merger.” Eventually, in February 2010, Judge Rakoff approved a \$150 million settlement reached by the SEC and Bank of America.

- **In September 2009, Mr. Lewis announced his resignation from Bank of America.**

- **In February 2010, the New York State Attorney General filed fraud charges against Ken Lewis and Joe Price, alleging that Bank of America management had “manipulated” the federal government into granting a “massive taxpayer bailout.”**

CREDIT RATING AGENCIES AND THE NEXT FINANCIAL CRISIS

Credit rating agencies promote themselves to investors as a source of independent analysis and information about debt securities. Debt securities, which include bonds, or “fixed-income” securities, are issued by governments, corporations, and other institutions. A major concern for investors is whether an issuer of debt securities will be able to make its promised payments. Credit rating agencies assess the financial condition and the creditworthiness of an issuer, as well as the particular security being issued, in order to grade the probability that the issuer will be able to make its payments.

Inaccurate credit ratings have been cited as a major contributing factor to the financial crisis. Investors, including pension funds, trusted that rating agencies would warn the public about issuers or financial instruments that were not creditworthy. Instead, rating agencies often were complicit in the structuring and prioritizing of supposedly safe financial products that later proved to be toxic to the financial system. Congressional investigations have shown that rating agencies underestimated the riskiness of structured financial products, held an overly optimistic view of the housing market, and relied on incomplete data when determining ratings.

On September 24, 2009, the Committee held a hearing examining the practices of the credit rating agencies following the financial crisis of 2008. The committee’s investigation revealed that, a year after the credit rating agency practices helped bring the national financial system to the brink of collapse, little has changed. The hearing featured the testimony of Ilya Eric Kolchinsky, a former Managing Director at Moody’s, who worked on a Moody’s team that rated structured products, including mortgage-backed securities, until he was terminated in 2009.

The Committee’s investigation uncovered evidence that credit rating agencies continue to engage in practices that call into question the accuracy of their ratings, including:

- Receive payments from debt issuers for both consulting and rating services, creating significant conflicts of interest;
- Fail to apply updated financial models to previous ratings;

- Fail to examine the credit worthiness of underlying assets, such as mortgages, that may be part of a larger securities package;
- Provide ratings for new financial instruments, without accurate historical data; and
- Fail to devote adequate managerial resources and expertise to accurately rate complex financial securities.

Moreover, the Committee found that Moody's has adopted a corporate policy of "leaving no fingerprints" by minimizing the creation of written records relating to the management and operation of the company. One particularly good example of this institutional secrecy was a so-called "independent audit" of the Kolchinsky allegations by an outside law firm which was retained by Moody's without a written agreement or statement of work; was provided with no written documents; and produced no written report.

FOLLOWING THE MONEY: REPORT OF THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM

On Tuesday July 21, 2009, the Committee held a hearing to examine the administration and oversight of the \$700 billion Troubled Asset Relief Program (TARP). At the hearing, the Special Inspector General for TARP (SIGTARP) released his first audit report on the use of TARP funds, and offered testimony on his findings and recommendations.

The Committee's investigation and hearing revealed that:

- The Treasury Department did not require banks to track their use of TARP funds, even though most institutions could readily provide information on their actual or planned use of TARP money.
- Treasury's design of TARP's Public-Private Investment Program makes the program vulnerable to compliance failures and risks of conflicts of interest unless appropriate guidelines and internal controls are established.

As a result of the Committee's hearing, in December 2009, the Treasury Department agreed to collect and disclose to the public data on the use of TARP funds by each recipient, as requested by Chairman Towns. Moreover, Treasury agreed to develop metrics and internal controls for financial assistance under the TARP Public-Private Investment Program. Finally, under pressure from Chairman Towns and other Committee Members, Treasury withdrew its challenge to the SIGTARP's independence.

The Economic Stimulus Program

The American Recovery and Reinvestment Act of 2009 (Recovery Act) was signed into law on February 17, 2009. The purpose of the Act is to promote economic stabilization, preserve and create jobs, assist those most impacted by the recent recession, and stabilize the budgets of state and local governments, while providing long-term economic investments in transportation, environmental protection and infrastructure. The Congressional Budget Office estimated that the Recovery Act would involve nearly \$790 billion in federal spending.

The Committee's oversight activities in this area focused on preventing fraud in stimulus spending, including oversight of the Recovery Board's auditing and waste prevention efforts; ensuring ac-

countability of stimulus spending at the federal, state, and local levels; and enforcing compliance with the Recovery Act mandate to prioritize stimulus spending in economically distressed areas.

One direct, concrete result of the Committee's oversight of the economic stimulus program was that the Department of Transportation redirected millions of dollars of stimulus projects to economically distressed areas, as required by law.

PREVENTING STIMULUS WASTE AND FRAUD: WHO ARE THE WATCHDOGS?

The sheer size of the Recovery Act program demands vigorous oversight of billions of stimulus dollars, much of it to be spent on new and existing federal and State programs employing outside contractors.

On March 19, 2010, the Committee held a hearing to examine implementation of the Recovery Act to identify potential oversight problems early and ensure that challenges are exposed before they become national disasters. The hearing featured the testimony of Earl Devaney, Chairman of the Recovery Act Accountability and Transparency Board (Recovery Board), and whose responsibility is oversight of the Recovery Act program. Chairman Towns requested Mr. Devaney to review the first 11 contracts awarded under the Recovery Act, and the fraud prevention programs at federal agencies.

The Committee's investigation and hearing revealed that:

- The enormity of the economic stimulus program would require the Recovery Board to enlist the assistance of federal and state agency inspector generals and state auditors in the oversight effort.
- Following the Recovery Board's review of the first 11 contracts, the Board referred three to the Inspector General at the General Services Administration and six to the Inspector General at the Department of Agriculture for more comprehensive review.
- The Administration's website for tracking Recovery Act spending (recovery.gov) was largely inadequate, incomplete, and inaccurate.

Immediately following the hearing, Chairman Towns wrote to Vice President Biden requesting that he convene an information technology roundtable to establish a uniform, accurate approach to tracking stimulus funds. In response, the Vice President convened a week-long national online dialogue hosted by the Recovery Board on Recovery.gov focused on identifying business models, best practices, proposals, and solutions that could be applied to Recovery.gov.

THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009: THE ROLE OF STATE AND LOCAL GOVERNMENTS

On April 21, 2009, as part of Chairman Towns' oversight of the implementation of the Recovery Act, a Full Committee field hearing was held in Brooklyn, New York, to examine the role of state and local governments in implementing the program. The Chairman was particularly interested in how to minimize waste, fraud, and abuse with respect to spending, and how to coordinate federal oversight of Recovery Act spending with state and local government oversight.

The Committee's investigation and hearing revealed that:

- The Administration has taken steps to reach out to states and localities to exhort cooperation and accountability and to solicit state and local input. For example, on March 5, 2009, Vice President Biden convened a day-long Stimulus Implementation Conference with the States. Representatives of 49 states attended, along with Earl Devaney, Chairman of the Recovery Board.

- State financial representatives are engaged in weekly conference calls with OMB, GAO, and Recovery Board officials regarding implementation of the Recovery Act and oversight of spending. Nevertheless, state auditors and inspector generals are complaining of a severe lack of resources to adequately oversee the enormous volume of anticipated Recovery Act spending.

- While it is still early in the life of the program, there are signs that Recovery Act spending is not being prioritized to focus on economically distressed areas, as required by law. Chairman Towns resolved to follow this issue closely in the coming months.

TRACKING THE MONEY: PREVENTING WASTE, FRAUD, AND ABUSE OF RECOVERY ACT FUNDING

On Wednesday, July 8, 2009, the Committee held its third in a series of hearings examining implementation of the Recovery Act. In order to ensure that taxpayer money is spent effectively and efficiently to those ends, the Committee sought to identify the unique challenges facing states, localities, and agencies in ensuring compliance with reporting requirements and preventing waste, fraud, and abuse.

Witnesses testifying at the hearing included the Acting Comptroller General of the United States, the Deputy Director of OMB, and the Governors of Maryland, Massachusetts, and Pennsylvania.

The Committee's investigation and hearing revealed that:

- States were able to quickly plan, enter into contracts, and initiate projects in order to immediately put Recovery Act funds to work.

- The Recovery Act has helped states avoid Draconian levels of budget cuts. Specifically, the Committee learned that states have used Recovery Act funds to maintain vital programs and avoid firing critical state employees, including public safety workers and teachers. Further, the Committee learned that states have used Recovery Act funds to reinforce the healthcare they provide to families under Medicaid.

- Although the Recovery Act requires states to give priority to highway projects located in economically distressed areas, according to GAO the states varied substantially in how they prioritized those areas in project selection.

- States were concerned with the limited allowance made for them to use Recovery Act funds to cover administrative and oversight costs associated with their Recovery Act spending.

- Although OMB has issued new guidance regarding how recipients of Recovery Act funds are to report on their use of those tax dollars, recipient reporting will need to be monitored to ensure that it is performed accurately.

Following the hearing, Chairman Towns met with the Secretary of Transportation to voice his concerns regarding the lack of prioritization of Recovery Act funding to economically distressed areas. On August 24, 2009, after detailed negotiations between

Chairman Towns and DOT, the Federal Highway Administration issued supplemental guidance to states clarifying the procedure and criteria for prioritizing transportation projects in distressed communities.

Chairman Towns has reiterated his call for Senate action on his bill, H.R. 2182, the Enhanced Oversight of State and Local Economic Recovery Act, which would help states defray the costs of administering and conducting necessary oversight of recovery activities. While the bill has passed the House, it has yet to be taken up by the Senate.

THE SILENT DEPRESSION: HOW ARE MINORITIES FARING IN THE ECONOMIC DOWNTURN?

On September 23, 2009, the Committee held a hearing on the effects of the current economic downturn on minority populations in the United States. The recession had devastating consequences for the nation's economy and a direct effect on almost every household. By the time of the hearing, national unemployment had risen to 9.7 percent, and the country had experienced a dramatically increased number of home foreclosures, particularly among those who received subprime loans.

At the hearing, the heads of several well-reputed national minority groups, a State Secretary of Housing, and representatives from think tanks, public policy and advocacy organizations testified regarding the startling inequities that minority groups have suffered as a result of the economic downturn. The Center for American Progress released a ground-breaking report entitled, *"Leveling the Playing Field: How to Ensure Minorities Share Equably in the Economic Recovery and Beyond"* which highlighted the racial disparities in areas such as joblessness, income, earnings, health insurance coverage, homeownership, and poverty.

The Committee's investigation and hearing revealed that:

- While the recession has affected nearly every citizen, African-Americans, Hispanics, and American Indians have been hit the hardest, and lost more economic ground faster than the general population.
- Home foreclosures are highly concentrated by race. Furthermore, the resulting correlation of vacant and for sale' homes in minority communities further drive down real estate values in minority neighborhoods.
- In 2008, the poverty rate for African-Americans remained roughly three times as large as that of whites, at 24.7 percent compared to 8.6 percent.
- Data on job losses across the country indicate a wide racial gap in unemployment. While unemployment hovered around 9 percent nationwide for whites, the national unemployment rate soared to more than 15 percent for African-Americans and 13 percent for Hispanics. Furthermore, minority unemployment had reached even higher levels in some cities and states, more than double the rate for whites.

The hearing further underscored the importance of focusing Recovery Act funding on economically distressed areas. As a result, this issue became central to the Committee's subsequent oversight hearings on the economic stimulus.

TRACKING THE MONEY: HOW RECOVERY ACT RECIPIENTS ACCOUNT
FOR THEIR USE OF STIMULUS DOLLARS

On November 19, 2009, the Committee held a hearing on the implementation of the Recovery Act. To safeguard the \$787 billion in taxpayer funds authorized by the Act, the legislation mandated unprecedented levels of accountability and transparency, including quarterly reporting from recipients on the use of Recovery Act funds. The mandate, outlined in Section 1512 of the Act, requires prime and sub-recipients of Recovery Act contracts, grants, and loans to submit quarterly reports on a range of information, including project status, total amount of funds received, and the number of direct jobs created or saved. The hearing examined those reports for the first reporting period covering the expenditure of Recovery funds, from February through September 30, 2009.

Witnesses at the hearing included GAO, which released its first statutorily required report on Recovery Act recipient reporting at this hearing; the Chairman of the Recovery Board, which is mandated to audit and review the spending of Recovery Act dollars; and the Deputy Secretaries of Education and Transportation.

The Committee's investigation and hearing revealed that:

- Significant amounts of job creation/preservation data reported by recipients appears to have been either understated or overstated.
- The recipient reports do not represent a full accounting of the number of direct or indirect jobs created or saved, nor do they reflect the overall effect of the Act on the national economy. Specifically, the recipient reports do not measure or estimate the affect of such expenditures as the loans to small businesses, tax relief, unemployment insurance, Pell grants, or Medicaid support authorized by the Act.
- Some Recovery Act recipients may have been confused with regard to their reporting requirements due to delayed or unclear guidance from OMB and other federal agencies.
- Federal agencies may not be fully complying with the Recovery Act requirement to prioritize spending on economically distressed areas.

As a result of the hearing, the Administration agreed to provide increased outreach and technical assistance to Recovery Act recipients in order to correct issues with the recipient reporting process. On December 18, 2009, OMB issued new guidance in order to address several concerns, including issues related to data quality, non-reporting recipients, and the reporting of job estimates.

More importantly, following the hearing, Secretary of Transportation LaHood agreed to refocus DOT spending on economically distressed areas. The Secretary met personally with Chairman Towns and followed up personally with a visit and public meetings in Brooklyn, New York, to implement his commitment.

TRACKING THE MONEY: ASSESSING THE RECOVERY ACT'S IMPACT ON
THE STATE OF CALIFORNIA

On Friday, March 5, 2010, the Committee on Oversight and Government Reform and its Subcommittee on Government Management, Organization and Procurement held a joint field hearing in

Los Angeles, California, on the affect of the Recovery Act in California.

According to California's official Recovery Act website, California had been awarded more Recovery Act funding (\$21.5 billion), than any other state in the nation. In February 2009, the Administration estimated that the Recovery Act ultimately would create 396,000 jobs in California and provide \$85 billion in benefits, programs, and projects to its residents.

In assessing the impact of the Recovery Act on the largest single recipient of Recovery funds, the hearing focused on transportation, education, and energy projects, while paying particular attention to evaluating measures taken to prevent waste, fraud, and abuse. The hearing also assessed the impact of state and local budget deficits on the implementation of the Act.

Witnesses testifying at the hearing included the mayors of Los Angeles, San Bernardino, and San Jose, along with the Director of the California Recovery Task Force, the California State Auditor, the California Recovery Inspector General, and GAO.

The Joint Committee hearing revealed that:

- Recovery Act funds have helped to preserve the delivery of essential services in California and its localities in the wake of declining revenues and resulting budgetary shortfalls. However, despite supporting numerous programs and projects, the Recovery Act had generally not helped local governments stabilize their base budgets.
- Some federal requirements, such as the Davis-Bacon Act and Buy American provisions, have affected the timing of Recovery Act program implementation as well as grantees' ability to select or start projects.
- California state officials and local recipients have experienced confusion because of delayed or conflicting federal guidance on assessing the results of Recovery Act spending.
- The California Department of Education (CDE) has experienced problems with the administration and oversight of Recovery Act activities. These problems were particularly significant given the department's independent constitutional authority within the State. Specifically, the hearing revealed issues regarding: (1) CDE's collection of accurate data from local education agencies on jobs resulting from Recovery Act funds; and (2) CDE's oversight of local education agencies to ensure proper cash management. Furthermore, the Committee was informed that CDE has extremely limited staff dedicated to Recovery Act implementation, thereby presenting a critical challenge to ensuring proper monitoring and oversight of designated Recovery funds.

Following the Committee's investigation and hearing CDE worked to resolve education job reporting issues by communicating additional guidance to the state's local education agencies. CDE has also taken steps to better monitor cash management issues.

The Home Foreclosure Crisis

The Committee held multiple oversight hearings on the Treasury Department's mortgage modification program and the failure of the banks to modify significant numbers of distressed mortgages. In addition, the Committee opened an investigation of home foreclosure fraud.

FORECLOSURE PREVENTION: IS THE HOME AFFORDABLE MODIFICATION PROGRAM PRESERVING HOMEOWNERSHIP?

According to RealtyTrac, by the end of 2009, the foreclosure crisis was growing unabated: 2.8 million households received notice of foreclosure in 2009. According to Moody's Economy.com, approximately 4 million homeowners—one in ten—nationwide were 90 days or more delinquent on their mortgage payments, or were already in foreclosure proceedings. Nationwide, homeowners have endured an average loss of nearly thirty percent in the value of their homes since 2006, and over twenty percent of all single family homes with mortgages are “under water”, i.e., the mortgage exceeds the value of the home. It was predicted that approximately 2.4 million borrowers will lose their homes to foreclosure by the end of 2010.

In response to the crisis in the housing market that was well under way when his tenure in office began, the Obama Administration implemented a number of initiatives which have as their goal to stabilize and support both borrowers and the real estate finance market. To support homeowners facing the unprecedented wave of foreclosures, the Administration announced a program called Making Home Affordable (MHA). The largest component of MHA is a loan restructuring initiative known as the Home Affordable Modification Program (HAMP). HAMP has come to be the frontline federal program addressing the nation's foreclosure crisis.

On March 25, 2010, the Committee held a hearing to examine the effectiveness of HAMP. Key witnesses were the GAO, the Treasury Department, the SIGTARP, and the National Community Reinvestment Coalition.

The Committee's investigation and hearing revealed that:

- There are serious concerns regarding the pace with which HAMP is offering long term solutions to borrowers at risk of foreclosure. It is unclear as to whether HAMP is capable of meeting its goal to assist three to four million homeowners by the time it is scheduled to terminate on December 31, 2012.
- Widespread reports continue of borrowers enduring lost paperwork, non-responses from their lenders, and trial modifications lasting five months or more. These delays have sparked lawsuits against Treasury.
- GAO found that HAMP's oversight infrastructure (including operational effectiveness controls, as well as servicer compliance) was still in development, and questioned Treasury's assumptions for the number of loans likely to be modified under HAMP.
- It appears that the pace of outreach is not keeping up with the pace of borrowers falling into serious delinquency status on their mortgages.
- As HAMP participating loan servicers have implemented HAMP, their performance in offering trial modifications, success in converting trial modifications to permanent modifications, and communication with borrowers has varied widely, suggesting issues with program compliance. Furthermore, homeowners and organizations have been unclear as to the reason why some borrowers who are apparently eligible to participate in HAMP, are denied participation when seeking HAMP assistance through their servicers.

- Homeowners facing foreclosure often become increasingly vulnerable to foreclosure rescue scams. The extent to which Treasury has been able to prevent homeowners from falling victim to scams purporting to offer assistance through HAMP, or a similar government program, is unclear, but seems to be minimal.

On the day after this hearing, the Treasury Department announced several changes to HAMP, including a principal forbearance program for unemployed borrowers and borrowers whose loans are under water. Treasury also issued rules prohibiting mortgage servicers from referring borrowers to foreclosure before offering modification under HAMP.

FORECLOSURE PREVENTION PART II: ARE LOAN SERVICERS HONORING THEIR COMMITMENTS TO HELP PRESERVE HOMEOWNERSHIP?

Amid complaints about banks and other mortgage servicers doing little to modify distressed mortgages, on June 24, 2010, the Committee held a hearing to examine the efforts of loan servicers in assisting struggling homeowners to avoid foreclosure, focusing on the implementation of the Home Affordable Modification Program (HAMP). Testifying at the hearing were the CEOs of the five largest mortgage servicers, responsible for over 85 percent of homeowner mortgages. The companies represented at the hearing were CitiMortgage, Bank of America Home Loans, American Home Mortgage Servicing, Wells Fargo Home Mortgage, and Chase Home Finance.

The Committee's investigation and hearing revealed that:

- Innovative ideas that go beyond HAMP are needed if meaningful foreclosure prevention is going to be realized. The HAMP modification process is only a temporary aid, even when a so-called "permanent" modification is issued.

- There are serious problems with the pace of conversion from temporary to permanent modifications under HAMP. Some loan servicers have been slow to start the mortgage modification process for potentially eligible borrowers, while others have quickly offered HAMP assistance, but have kept borrowers in temporary status for a prolonged period of time while awaiting a permanent modification.

- Documentation problems are a significant factor in the slow pace of conversion to permanent modifications.

- While loan servicers report making organizational and procedural changes to improve the handling of documents and better assist borrowers at risk of foreclosure, servicer communication with borrowers appears to remain an ongoing issue.

- The challenges faced by borrowers who have difficulty understanding the reason for their HAMP denials is magnified when a servicer does not have an established and responsive process for receiving complaints and appeals.

The Committee's hearing had an immediate, tangible effect. On the day of the hearing, Bank of America announced what appeared to be the first meaningful principle reduction program for distressed borrowers. If this program is implemented as advertised and similar programs are adopted by other banks, it could be more effective than HAMP in providing long-term relief to homeowners. In addition, Treasury and some loan servicers announced improvements to HAMP loan modification processing. Servicers also com-

mitted to hold off on foreclosures until all HAMP and non-HAMP alternatives were explored with delinquent borrowers.

INVESTIGATION OF FRAUDULENT FORECLOSURE PRACTICES

Despite assurances to the Committee and the public that HAMP and non-HAMP solutions would be exhausted before beginning foreclosure proceedings, mortgage servicers continued to file record numbers of foreclosures at a rate which far outpaced trial and permanent modification offers. In October 2010, it was revealed that thousands of foreclosure proceedings nationwide may have been tainted by suspect practices, including: false certifications; the use of incorrect information; unverified documentation; and forged signatures. Some servicer employees have admitted being “robo-signers”—certifying the reviews of thousands of foreclosure files per month without having actually done so.

In October 2010, Chairman Towns wrote to the chief executives of the nation’s top 25 mortgage lenders requesting the immediate suspension of foreclosures in all 50 states pending investigation of these alleged irregularities. As a result, some major lenders agreed to suspend foreclosures, including Bank of America—50 states; JP Morgan Chase—23 states; and GMAC—23 states. Attorneys General in several states have banded together to investigate and prosecute foreclosure fraud, based on these allegations.

Federal Contracting

HOW CONVICTS AND CON ARTISTS RECEIVE NEW FEDERAL CONTRACTS

Federal agencies are required by statute to award contracts to a “responsible source” that has a “satisfactory performance record” and “a satisfactory record of integrity and business ethics.” In determining whether a prospective party is responsible, contracting officers are required to consult the Excluded Parties List System (EPLS) prior to awarding a contract or other funding to ensure that the prospective contractor is eligible.

The EPLS is a web-based database of individuals and firms excluded by federal agencies from receiving contracts and certain types of financial and nonfinancial assistance. GSA is responsible for operating and maintaining the EPLS, which is accessible on the Internet.

Any federal agency may exclude, i.e., suspend or debar, a business or individual from receiving contracts for reasons such as failure to adequately perform under the terms of a contract, or for an offense indicating a lack of honesty or business integrity. Within five business days after a suspension or debarment becomes effective, agencies must report all excluded parties to EPLS. The Federal Acquisition Regulation (FAR) requires contracting officers to review EPLS at the opening of bids or receipt of proposals, and again, prior to issuing an award.

At the request of the Chairman of the Committee, GAO conducted a study to determine whether businesses or individuals listed on the EPLS have received federal contracts or funding. On Thursday, February 26, 2009, the Committee held a hearing to examine weaknesses in EPLS.

The Committee’s investigation and hearing revealed that:

- Businesses and individuals listed on the EPLS for offenses ranging from national security violations to tax fraud, were improperly receiving federal contracts or other funding.
- Most of the improper contracts and payments identified by the Committee and GAO could be attributed to ineffective management of the EPLS database or to the failure of contracting officers to consult the EPLS or comply with the suspension or debarment requirement.

Under pressure from Chairman Towns, GSA committed to take corrective action in an effort to resolve issues raised at this hearing by providing direct access links to the EPLS from procurement related websites; and creating automatic digital messages to remind contracting officers to check the EPLS prior to issuing a task order. Ultimately, however, the suspension and debarment system will be effective only if contracting officers list inept or corrupt contractors on the EPLS and if contracting officers are penalized for using contractors listed on the EPLS.

REWARDING BAD ACTORS: WHY DO POORLY PERFORMING CONTRACTORS CONTINUE TO GET GOVERNMENT BUSINESS?

On March 18, 2010, the Committee held a hearing to examine certain federal agencies' failure to suspend or debar contractors for poor performance or malfeasance. The hearing featured testimony by the Inspector Generals from three major federal agencies: the Department of Homeland Security (DHS), the U.S. Agency for International Development (USAID), and the Department of Transportation (DOT).

The Committee's investigation and hearing revealed that:

- One year after the Committee's initial oversight hearing on the suspension and debarment system (Feb. 26, 2009), little has changed. According to recent IG reports, federal agencies, including DHS, USAID, and DOT, continue to disregard regulations related to suspension and debarment.
- In cases where contracts were terminated for default or for cause, the majority were never even reviewed for possible suspension or debarment of the contractor.
- The apparent reluctance of federal agencies to suspend and debar bad actors leaves the government at risk of continuing to do business with inept or corrupt contractors and may result in decreased productivity and increased costs.

All three agencies stated at the hearing that they had taken steps to improve suspension and debarment deficiencies found by the IGs. Whether these agencies and others will continue to take action against poor performers will only be determined by continued oversight of this issue.

RUNNING OUT OF TIME: TELECOMMUNICATIONS TRANSITION DELAYS WASTING MILLIONS OF FEDERAL DOLLARS

On May 20, 2010, the Committee held a hearing to examine the federal government's delay in implementing Networx, a government-wide program negotiated and managed by GSA to provide telecommunications service to federal agencies at substantial cost savings.

The federal government is currently transitioning all of its major telecommunications, network, and information services under

GSA's Federal Technology Service 2001 contracts (FTS2001) to the new program, Networx, which offers services at a significant discount, in some cases as much as 40 percent. The overall Networx program has an estimated value of \$68 billion for the life of the 10-year contract.

The Committee's investigation and hearing revealed that:

- The transition to Networx is behind schedule. With bridge contracts set to expire in May and June 2010, and with one-year continuity of service agreements in place, FTS2001 services are scheduled to be terminated in May and June 2011. While progress is difficult to measure, as of April 2010, at best only half of the transition had been completed.

- GSA estimates that for every month federal agencies delay in transitioning from FTS2001 to Networx, it costs taxpayers \$22.4 million in unrealized cost savings, or \$250 million per year.

Since the Committee's hearing, the transition to Networx has increased to nearly 70 percent. This is still much too slow. The Networx transition will require continued oversight to ensure full implementation.

TRANSITION IN IRAQ: IS THE STATE DEPARTMENT PREPARED TO TAKE THE LEAD?

Since Operation Iraqi Freedom began in March 2003, the main U.S. presence in Iraq has been the military. In addition to conducting combat operations, the military is providing security and life support services for U.S. civilian operations, managing reconstruction efforts, and training and equipping Iraqi security forces. Under current plans, as the U.S. continues to withdraw its forces from Iraq, the State Department will be assuming responsibilities that have historically been carried out by the Department of Defense.

On September 23, 2010, the Committee held a hearing to examine the plans and implementation status of the transition of Iraq functions from the Defense Department to the State Department. The hearing included issues identified in a recent report by the Commission on Wartime Contracting, which identified serious deficiencies in transition planning.

The Committee's investigation and hearing revealed that:

- Planning for moving vital functions from the Defense Department to the State Department is not adequate and risks both financial waste and undermining U.S. policy objectives.

- In addition to State's lack of expertise in carrying out the duties and functions of the military, State also lacks the equipment to perform these duties and functions. The Defense Department has for the most part failed to respond in a meaningful way to the State Department's equipment and services requests.

- Of particular concern is State's "lost functionality" list of 14 security-related tasks now performed by the military that State take over as the military drawdown proceeds.

- Regardless of the decisions made on which tasks to transfer from the Defense Department to State and which to transfer to the government of Iraq or to end, State will need to substantially expand its contracting staff to meet its new responsibilities.

- To provide security, the State Department will need to more than double the number of private security contractors serving in Iraq, to between 6,000 and 7,000.
- As State hires more private security contractors to perform the duties once carried out by the military, existing weaknesses in contract management, oversight, funding, and hiring are likely to be exacerbated.
- According to GAO, the State Department's operations budget is far too inadequate to carry out the functions to be transferred from the Defense Department.

Chairman Towns concluded that the Defense Department has devoted relatively little attention to the serious logistical issues involved in implementing the transition in Iraq from the Defense Department to the State Department. If these issues are not addressed soon, there will be a potential for an enormous waste of money and effort. Worse, U.S. policy objectives could be seriously undermined.

THE FUTURE OF THE V-22 OSPREY: COSTS, CAPABILITIES, AND CHALLENGES

The V-22 Osprey is a tilt-rotor combat troop transport aircraft that combines the functions of a helicopter and a turboprop aircraft. This hybrid aircraft is designed to have the vertical maneuverability and flexibility of a helicopter and the speed and long range of a fixed-wing aircraft. The V-22 was developed through a joint venture between Bell Helicopter, a subsidiary of Textron, and The Boeing Company, and is powered by two engines manufactured by Rolls-Royce. There are two major variants of the V-22—the MV-22 used by the Marine Corps and the CV-22 used by the Air Force. The vast majority of the Ospreys purchased by the Defense Department are used by the Marine Corps.

The Osprey's development history spans a quarter century. Over the years, there have been concerns regarding its design, airworthiness, maintenance, parts reliability, combat readiness, and safety. From 1991 to 2000, the Osprey crashed four times, causing 30 fatalities. Its history has also been marred by aircraft fires, lawsuits by crash victims, subcontractor convictions for fraud, and convictions of three Marines for falsifying maintenance records.

On June 23, 2009, the Committee held a hearing to examine the operational effectiveness, suitability, and cost of the Osprey. At the request of the Committee, GAO conducted a forward-looking examination of the aircraft that focused on whether the V-22 can perform as promised and analyzed the associated costs. The hearing featured GAO's testimony on its findings, as well as testimony from the Marine Corps.

The Committee's investigation and hearing revealed that:

- While the operational requirements of the V-22 have diminished over the years, the cost of the aircraft has increased significantly. The cost per aircraft has almost tripled since the V-22's inception, to approximately \$100 million each. Cost overruns for the V-22 program have reached \$16.8 billion, making the program 186 percent over budget.
- The V-22 suffers from major maintenance and reliability problems that affect its readiness and availability.

- GAO found that the V-22 may not be operationally effective in higher-threat environments, like Afghanistan, and questions the ability of the aircraft to operate in extreme environments.

- According to GAO, the V-22's operational problems call into question whether the aircraft is best suited to accomplish the full range of missions of the CH-46E helicopter the V-22 was intended to replace, or the range of missions provided by other modern helicopters. As one result of operational problems, the Marine Corps intends to employ the aircraft so as to limit its exposure to hostile fire, such as avoiding "hot" landing zones. This is contrary to the original intent—that the aircraft would be able to operate in such environments.

- Test pilots have found limitations that restrict the aircraft's flight parameters and could limit its ability to respond to threats. The Marine Corps has imposed flight limits on the aircraft while it is in helicopter mode to avoid loss of controlled flight.

- The V-22 was intended to be used aboard ships, but there are severe limitations to such use. Due to the aircraft's large size, fewer V-22s can operate on Navy flight decks compared to other helicopters. In addition, the V-22 requires a very large inventory of spare parts that takes up too much space on the ship—so large an inventory that spare parts need to be pre-positioned onshore or on other ships.

- The extraordinary force of the "downwash" from the V-22's rotors severely affects operations below the aircraft, both aboard ship and on land.

- The V-22 has major problems with both icing and overheating.

The June 23 hearing was first convened on May 21, 2009. However, at the outset of the May 21 hearing, Chairman Towns decided to postpone because the Department of Defense had not produced records in response to the Committee's May 5, 2009, document request. Seven days later, on May 28, 2009, the Committee received a partial document production of four small binders, and on June 2, 2009, staff met with Marine Corps officers who provided additional documents that filled some of the information gaps remaining from the initial production. During the June 2 meeting, staff again requested internal memoranda concerning the operational status of the V-22 fleet and received a second production, a single binder, on June 5, 2009. The Chairman does not believe that the total of five binders produced to the Committee represents the full universe of responsive records. Nevertheless, as summarized above, the data and documents the Committee did receive paint a troubling picture of the V-22 Osprey.

While the Defense Department does not concur with GAO's assessment of the V-22's operational effectiveness, it concurs with the finding that the V-22 has problems with reliability and maintenance which affect the aircraft's operational suitability. GAO defines "operational suitability" as the degree to which a system can be placed and sustained in field use." It is clear that the V-22 has problems with unreliable parts and supply chain weaknesses that have reduced the availability of the aircraft for field use, below minimum requirements.

The Defense Department originally contemplated purchasing 1,000 V-22s over 10 years at \$40 million each. The Army abandoned the project in 1983 due to rising costs, but the Marine Corps

continued the program. In 1989 and again in 1992, then-Secretary of Defense Dick Cheney unsuccessfully tried to eliminate the V-22 program because of serious technical problems and high costs. Since then, the V-22's costs have risen significantly.

Marine Corps documents uncovered by the Committee raise additional questions about the operational capabilities of the aircraft. For example, an internal report by the Marine Corps Center for Lessons Learned provides an analysis of the MV-22's performance in Iraq identifying a number of serious problems relating to the unreliability of the MV-22 and expresses concern that the MV-22's full capabilities have not been explored due to "cautious tasking" and a lack of opportunity to participate in assault support missions at the tactical level.

Other internal documents identify further serious deficiencies in the aircraft, discuss a variety of operational problems, question whether the V-22 underwent adequate and complete operational testing, and even raise serious questions about the safety and survivability of the aircraft.

As a result, Chairman Towns concluded that the V-22 Osprey is a waste of taxpayer money and a threat to troop safety, and called for an immediate halt to further government purchase of the aircraft.

Public Health

INVESTIGATION OF JOHNSON & JOHNSON'S RECALL OF CHILDREN'S MEDICINE AND THE "PHANTOM RECALL" OF MOTRIN

On April 30, 2010, pharmaceutical giant Johnson & Johnson and its McNeil Consumer Healthcare (McNeil) subsidiary announced a recall of 135 million bottles of children's medicine, the largest recall of pediatric medicine in the history of the Food and Drug Administration (FDA).

This recall was announced after an FDA inspection revealed problems resulting from careless manufacturing procedures at the McNeil plant where the recalled medication was manufactured. Among other things, the FDA found that these medicines could contain metal shavings from machinery, too much active ingredient, or bacterial contamination. According to the FDA, from January 1, 2008, through April 30, 2010, 775 adverse events were reported for the recalled products, including 30 deaths. The FDA did not consider this to be a "spike" in adverse events for the recalled products during this timeframe. Since the announcement of the recall, several hundred additional adverse events were reported to the FDA, including seven deaths. FDA is still investigating some of these adverse events to determine if the events were related to a child taking one of the recalled medicines.

Chairman Towns began an investigation of this matter in April 2010. The investigation involved the review of over 30,000 internal Johnson & Johnson and FDA documents, investigative interviews of senior company executives, and two Committee hearings. The investigation is ongoing. The U.S. Attorney's Office for the Eastern District of Pennsylvania is also investigating McNeil, and the FDA has referred certain McNeil activities to its Office of Criminal Investigations.

On May 27, 2010, Chairman Towns convened the first investigative hearing on this matter with Johnson & Johnson executive Colleen Goggins and Dr. Joshua Sharfstein, Principal Deputy Commissioner of the FDA, testifying.

Dr. Sharfstein testified that over the last several years, FDA has had growing concerns about the quality of McNeil's manufacturing process. He told the Committee that FDA had inspected McNeil's facilities with increased frequency and that, earlier this year, FDA took the "extraordinary step" of meeting with the management of Johnson & Johnson to express concerns about a pattern of non-compliance at McNeil. Dr. Sharfstein also testified that FDA was working with McNeil to address its systemic quality issues, was monitoring the implementation of McNeil's corrective action plan, and would ensure that when McNeil's Fort Washington plant began manufacturing again, it would be able to produce safe products.

Ms. Goggins testified that the April 30 recall was not undertaken on the basis of adverse events and stated why McNeil believed the health risk to consumers was remote. Ms. Goggins also testified about the actions that McNeil took immediately after the recall to pull products from shelves and to inform doctors and consumers of the recall. Finally, Ms. Goggins stated how Johnson & Johnson and McNeil had been working together to improve the quality of McNeil products and spoke about the steps that McNeil was taking to bring its operations back to a level of quality expected by the public.

In the course of this hearing, the Committee discovered that Johnson & Johnson had conducted a "phantom recall" of a certain adult Motrin product. In November 2008, McNeil discovered a dissolution problem in certain adult Motrin tablets, known as Motrin 8s. This Motrin product was sold in eight-count vials in roughly 4,100 stores across the country.

Rather than announcing a recall of the Motrin product so the public could be aware of the problem, McNeil executives hired contractors to go into stores and simply buy the product off the shelves, without disclosing the problem or disclosing the fact that they were working at the direction of McNeil. Chairman Towns dubbed this the "phantom recall." Johnson & Johnson initially claimed it kept the FDA informed of its activities with respect to the phantom recall, but the FDA contended that it was never informed of the surreptitious manner in which the contractors were taking the medication off the shelves.

According to a document obtained by the Committee, the following written instructions were given to the contractors who carried out the phantom recall:

"You should simply 'act' like a regular customer while making these purchases. THERE MUST BE NO MENTION OF THIS BEING A RECALL OF THE PRODUCT!" (emphasis in the original).

At the first hearing, a copy of these instructions was shown to Ms. Goggins, who stated, "I can't tell you about the behavior of these contractors in the market or what they said or didn't say or how they acted" Ms. Goggins was also asked by Chairman Towns, "[i]n other words, for the contractors to go in and say do not mention the fact that this is a recall, you know nothing about any of that?" Ms. Goggins replied, "I know nothing about that, sir."

Following this hearing, Chairman Towns requested additional documents from Johnson & Johnson related to the phantom recall. In response, the Committee received a copy of a McNeil document containing instructions for the contractors who conducted the Motrin phantom recall. In part, the instructions stated, “[d]o not communicate any information about this product” [when conducting the phantom recall]. Just purchase all available product.”

A second hearing on this matter was held on September 30, 2010. At this hearing, Johnson & Johnson’s CEO, Mr. William Weldon, admitted that the phantom recall had begun before Johnson & Johnson informed the FDA that the affected Motrin was being purchased by contractors. It is also unrefuted that Johnson & Johnson never informed the FDA of the surreptitious manner in which it was having contractors take the product off the shelves, and that it did so without disclosing the problems with the medication.

At the second hearing, Mr. Weldon stated, “[b]ased on what I have learned since the May hearing [the Committee’s first hearing on the Johnson & Johnson recalls] about the way the Motrin retrieval was handled, including the points that this Committee brought to light, it is clear to me that in retrospect, McNeil should have handled things differently. And going forward, if similar situations arise, they will be handled differently.”

Ms. Goggins was invited to attend the second hearing so that she would have an opportunity to clarify the inconsistencies between what she stated at the first hearing and how those statements comported with the documents the Committee eventually obtained. At the second hearing, Ms. Goggins testified, “[a]t the time of the hearing in May, I had no personal knowledge of and had not seen the contractor or McNeil instructions. Since then, however, I have reviewed the McNeil instructions to the contractor that instructed the contractor to purchase the product without engaging in discussions with the store personnel. Based on what I have learned since May, I believe that McNeil should have handled things differently. We, as a company, have learned from this process.”

Johnson & Johnson announced Ms. Goggins’ retirement on September 16, 2010.

While investigating both the initial 135 million bottle recall of children’s medicine and the phantom recall of adult Motrin, the Committee also discovered that McNeil used the same phantom contractors to perform work related to a separate recall of children’s medicine that was announced in September 2009. The Committee also uncovered the fact that this September 2009 recall involved at least 8 million bottles of children’s medicine.

The investigation is continuing, and has expanded to include the possibility of additional phantom recalls.

MILITARY WASTE DISPOSAL IN BURN PITS

Since 2001, the military and its contractors have used open pits to burn waste produced by military installations in Iraq and Afghanistan. Many veterans are now reporting that fumes and ashes from these burn pits have contributed to a variety of illnesses, including asthma, severe bronchiolitis, chronic coughs, skin infections, Parkinson’s disease, leukemia, and rare cancers. Many of these burn pits were managed by contractors.

On May 11, 2010, the Chairman Towns announced an investigation into the illnesses that have been reported by military personnel and civilian workers returning from Iraq and Afghanistan. As part of this investigation, the Chairman requested documents from the Department of Veterans Affairs and the Department of Defense.

While the investigation is continuing, following are some preliminary findings:

- As early as 2003, members of the military had complained that the operation of burn pits violated the military's own guidelines.
- Medical waste, hazardous waste, plastics, and other dangerous materials were disposed of in some burn pits.
- Numerous members of the military complained of health effects associated with exposure to the burn pits, and indicated that burn pits were negatively impacting force readiness.
- Many burn pits continue to operate in Iraq and Afghanistan, and the military still lacks effective, safe waste management procedures at many bases.
- The military continues to burn potentially dangerous materials in some burn pits, in express violation of Defense Department guidelines released in 2010.
- Isolated samples of some bases containing burn pits showed high levels of particulate matter that exceeded EPA guidelines and, in some cases, elevated levels of hazardous substances.
- Several studies conducted by or at the request of the Defense Department found that burn pits could produce adverse health effects.

The Committee continues to support efforts by the Institute of Medicine and other groups to fully examine the health impacts associated with burn pits, and ensure that veterans who may have been adversely affected by the burn pits receive the appropriate medical treatment. To that end, the Committee has made relevant Defense Department documents available to the Institute of Medicine, to assist with the Institute's efforts to assess the health effects associated with burn pits.

VIRAL HEPATITIS: THE SECRET EPIDEMIC

On June 17, 2010, the Committee held a hearing to examine the issues associated with the prevention, detection, and control of viral hepatitis. The hearing was particularly focused on a report from the Institute of Medicine entitled, "Hepatitis and Liver Cancer: A National Strategy for Prevention and Control of Hepatitis B and C."

The committee received testimony from nine witnesses, including three members of Congress, the Assistant Secretary for Health at HHS, and the Director of the Viral Hepatitis Program at the Centers for Disease Control and Prevention. Witnesses stressed the importance of greater research in the areas of monitoring and prevention of hepatitis, and greater interagency coordination and integration of resources. The Assistant Secretary of Health, Howard Koh, announced a new interagency working group to improve coordination in addressing hepatitis, and a comprehensive strategic action plan to improve the coordination of viral hepatitis prevention activities within HHS.

The Committee's investigation and hearing revealed that:

- Lack of knowledge and awareness about chronic viral hepatitis on the part of healthcare and social-service providers has remained a principal barrier to effective treatment and prevention.
- Inadequate treatment and prevention programs have contributed to high levels of viral hepatitis among African-Americans and other minorities, and additional clinical trials are needed to ensure the efficacy of all new treatments for those affected by hepatitis.
- There is currently no federal funding to provide core public health services for viral hepatitis, such as testing, counseling, or surveillance.
- Community-based organizations such as the Hepatitis Education Project have played an integral role in providing hepatitis prevention, testing, and referral to proper medical care.

POST-KATRINA RECOVERY: RESTORING HEALTHCARE IN THE NEW ORLEANS REGION

Hurricane Katrina devastated infrastructure of all types in the New Orleans area, including much of the region's health care delivery system. A number of major hospitals and outpatient clinics were destroyed or severely affected by the storm. Consequently, the region has struggled to rebuild health care access for many of the region's residents, particularly the poor.

Chairman Towns conducted a major investigation into the status of the region's healthcare delivery system to examine what progress has been made to repair and augment the region's critical health care infrastructure and what challenges remain. The investigation assessed: (1) the role now played by the roughly 90 primary care clinics supported in part with temporary federal funding made available after the storm; (2) whether key primary care clinics could be made financially sustainable; and (3) whether certain major healthcare providers including hospitals could or should be rebuilt. The investigation also assessed the additional stresses to the region that could occur as a result of expected reductions in Medicaid funding. Committee staff conducted extensive field interviews with a wide-variety of healthcare providers, as well as federal, state, and local government officials responsible for providing and restoring healthcare services to the region.

On December 4, 2009, the Committee held a hearing entitled "Post-Katrina Recovery: Restoring Health Care in the New Orleans Region" to focus on these important issues. The Committee's investigation and hearing revealed that:

- While access to health care facilities had improved since the storm, the region still faced considerable health care challenges.
- It remains unclear how or if a facility would be built to replace Charity Hospital, the region's largest public hospital.
- With a number of private hospitals remaining shuttered, it is questionable whether many will ever be reopened, due to financing questions.
- While a number of primary care clinics were able to supplement the services once provided by destroyed or capacity-diminished hospitals, the community is concerned that many of these clinics will not survive once stabilization grant money ends.

Stemming in part from the Committee's investigation, the Department of Health and Human Services renewed its focus on the region's health care delivery system and made a commitment to ex-

plore new options (including Medicaid waivers) for continuing important health care services related to recovery. The Department also told the Committee that it would explore whether certain primary care clinics could qualify as Federally Qualified Health Centers, which would allow them to receive additional funding. This might allow some clinics to continue to operate. As the New Orleans region continues to recover, the Committee intends to monitor these and other recovery activities.

EFFORTS TO MONITOR FOREIGN-PRODUCED DRUGS AND OTHER FDA-REGULATED PRODUCTS

Globalization has placed considerable demands on the FDA, which is responsible for ensuring that an increasingly large volume of both food and drug products originating from abroad and consumed by Americans are safe and meet U.S. standards.

Over the past few decades, the United States has come to depend on both finished drug products and important ingredients used to make drugs from abroad. The FDA is the primary agency responsible for ensuring that such imports are safe, effective, and meet all U.S. regulatory requirements. As more pharmaceutical manufacturing moves overseas, now spanning more than 100 countries, oversight of foreign facilities continues to pose considerable regulatory challenges to the FDA, requiring dramatic increases in inspections, monitoring activities, and enforcement actions, and demanding more resources to adequately carry out these functions.

The Committee staff met with FDA to discuss ongoing work plans to inspect drug and food production facilities that ship products to the U.S. In addition, Chairman Towns requested GAO to conduct two detailed audits to evaluate FDA's efforts in this important consumer protection area.

The first audit examined how well FDA was inspecting foreign plants shipping drugs and food products to the U.S. That review revealed that while FDA has made some progress in closing its inspection gap, the agency still conducts relatively few foreign inspections leaving the U.S. drug supply at some risk. GAO also recommended in earlier work that FDA create a risk-based inspection system to better prioritize scarce inspection resources. GAO found that the agency still has not adopted that recommendation, resulting in the potential misapplication of critical resources.

The second audit examined efforts by the FDA to setup a series of overseas offices to enhance its ability to work with host governments to inspect all FDA-regulated products sent to the U.S. GAO's review found that this effort had allowed the agency to establish important regulatory dialogue with foreign regulatory authorities and gather important information about regulated products. However, GAO also found that coordination of these offices with other parts of FDA remains a challenge and that the agency lacks a long-term strategic plan for this effort. Without such a plan, GAO remains concerned that it will be difficult to assess how this program is benefitting the U.S. consumer, and whether the benefits justify their costs.

Chairman Towns believes that the issue of how FDA regulates food and drugs, particularly those originating from abroad, should be among the top issues for continuing oversight in the next Congress.

OFF-LABEL MARKETING OF THE PRESCRIPTION DRUG RAPAMUNE

On June 11, 2010, the Committee launched an investigation into whistleblower reports that Wyeth Pharmaceuticals (which was acquired by Pfizer in October 2009) marketed the prescription drug Rapamune for purposes that were not approved by the FDA. Additionally, the Committee's investigation paid particular attention to allegations that Wyeth promotional activities involving Rapamune targeted African-American patients and may have placed them at a greater risk of harm.

Rapamune is approved by the FDA for use to prevent the immune systems of kidney transplant patients from rejecting their new organs. It is subject to specific instructions regarding when, how, and to whom the drug should be administered. However, several former Wyeth employees claim that Wyeth aggressively encouraged the use of Rapamune to prevent organ rejection following heart, lung, liver, pancreas, and islet cell transplants, without FDA approval. It has also been alleged that unapproved dosing regimens for Rapamune were promoted by Wyeth. In addition, Wyeth allegedly encouraged physicians to switch patients from other medications and begin treatment with Rapamune at a later stage following a transplant than is approved by the FDA. Similarly, despite the FDA's concerns and specific instructions regarding the drug's use in kidney transplant patients at a high risk of organ rejection, particularly African-Americans, the former employees claim that Wyeth may have targeted that population for the marketing of unapproved uses for Rapamune.

At the request of Chairman Towns, both Pfizer and the FDA have turned over thousands of documents pertaining to the marketing of Rapamune. Although analysis of those documents is continuing, a preliminary review indicates that further investigation is strongly warranted. In addition, on October 13, 2010, the Department of Justice announced that it had decided to intervene in a qui tam suit against Pfizer based on similar allegations.

Based on review of the documents obtained so far, and because of the egregious nature of the allegations, Chairman Towns has concluded that the Rapamune investigation should be near the top of the Committee's agenda in the next Congress.

PANDEMIC INFLUENZA PREPAREDNESS

In March 2009, a novel strain of H1N1 influenza was reported in Mexico. This virus quickly moved into the U.S. over the spring. The virus spread globally and became the prominent influenza strain around the world in early 2009. On June 11, 2009, the World Health Organization declared the H1N1 influenza outbreak a pandemic, the first global pandemic declared since 1968. In response to this pandemic, the Committee held two hearings examining issues surrounding pandemic preparedness.

State and Local Pandemic Preparedness

On May 20, 2009, the Committee held a hearing focused on the readiness of states and localities to respond to influenza pandemics. This hearing, which featured the testimony of federal, state, and local officials, examined the pandemic preparedness plans of state, county, and city health departments and explored

whether these health departments had the required resources to implement their plans. The Committee received testimony about the important role that state and local health departments play in protecting the public health and how the underfunding of these health departments would hamper their ability to respond to an influenza pandemic.

Following the Committee's hearing, on June 16, 2009, the Supplemental Appropriations Act of 2009 was passed. This bill provided \$1.85 billion for the Public Health and Social Services Emergency Fund to prepare for an influenza pandemic, with \$350 million for state and local government preparedness.

The Administration's Flu Vaccine Program: Health, Safety, and Distribution

The Committee's second hearing on pandemic preparedness was held on September 29, 2009. This hearing examined the Administration's H1N1 flu vaccine program, including related health and safety issues, and how the U.S. might address pandemic flu vaccine production and distribution issues in the future. Three officials from the Department of Health and Human Services testified at this hearing: the Director of the Centers for Disease Control and Prevention, the Director of the National Institute of Allergy and Infectious Diseases, and the Deputy Commissioner of the Food and Drug Administration.

PROSTATE CANCER: NEW QUESTIONS ABOUT SCREENING AND TREATMENT

On March 4, 2010, the Committee held a hearing examining issues surrounding the detection and treatment of prostate cancer. The hearing reviewed the latest developments in screening and treatment for prostate cancer, and the latest research efforts. The Committee heard testimony from the National Cancer Institute, the American Cancer Society, and the U.S. Army Medical Research and Materiel Command, among others.

The Committee's investigation and hearing revealed that:

- Recent debates about the efficacy of screening for prostate cancer have sparked new concerns about both screening and treatment for the disease.
- While effective cancer treatment has long been predicated on early detection and treatment, this long-held tenet is now being debated.
- The American Cancer Society now takes the position that the benefits of early screening for breast and prostate cancer have been overstated.
- The National Cancer Institute has stated that it is not known for certain whether prostate cancer screening saves lives.
- Taking the opposing view, the American Urological Association has stated that it strongly supports prostate cancer screening, as does the Uniformed Services University of the Health Sciences Center for Prostate Disease Research.

Given the diversity of expert opinion, the issue remains unclear. However, most witnesses agreed that there is a strong need for informed consent by patients, including a discussion about the benefits and risks of testing before screening is undertaken.

National Security

IMPLEMENTATION OF IRAN SANCTIONS

The Secretary of State has designated Iran as a state sponsor of terrorism because the country has repeatedly provided support for acts of international terrorism. This designation subjects Iran to a variety of sanctions, including a restriction on U.S. foreign assistance, a ban on defense exports and sales, and controls on exports of dual-use items (civilian items with potential military applications). In addition, the designation as a state sponsor of terrorism triggers U.S. laws that impose sanctions on countries and persons engaging in certain activities with Iran. In addition, Executive Order 12,959 bans nearly all U.S. trade and investments involving Iran.

On April 15, 2010, a bipartisan group of 363 Members of Congress, including Chairman Towns, wrote to President Obama to express concern over the threat of Iran's nuclear program and offering bipartisan support for tough measures, including a prohibition on the practice of awarding billions of federal dollars to companies investing in or doing business with Iran. On July 1, 2010, the President signed into law a sweeping new set of U.S. sanctions targeting Iran's energy and financial sectors, entitled the "Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA)."

On July 29, 2010, the Committee held a hearing to examine the implementation of Iran sanctions, including efforts to discourage companies from conducting business with Iran as long as Iran continues to support terrorism and develop nuclear weapons. This was the first Congressional hearing on Iran sanctions in years that was attended by witnesses from the State Department and the Treasury Department, the two agencies with the primary responsibility for implementing the Iran sanctions.

The Committee's investigation and hearing revealed that:

- In the 14 years since the Iran Sanctions Act passed, as of the date of this hearing, sanctions had not been imposed.
- A number of private sector firms and individuals have illegally transshipped or attempted to transship a wide range of U.S. military and dual-use goods to Iran, including parts for U.S.-built military helicopters; military-grade night vision equipment; sub-machine guns; computers; specialized laboratory equipment; electronic components for missiles; parts for Iran's U.S.-built Hawk anti-aircraft missiles; and specialized steel and pumps for nuclear applications.
- The U.S. ban on trade and investment in Iran does not apply to foreign firms or to foreign subsidiaries of U.S. companies. Consequently, many large foreign firms openly and actively engage in commercial transactions with Iran.
- At least 12 large U.S. multinational firms have received federal contracts while their foreign subsidiaries were doing business in Iran.
- Despite the fact that sanctions have never been imposed under the Iran Sanctions Act, the State Department believes the Act has been an effective deterrent. For example, State points out that it had been negotiating with several firms publicly identified as possible violators of the Iran Sanctions Act for up to a year, and sev-

eral firms (Total, Statoil, ENI, Repsol, and Lukeoil) recently announced that they are withdrawing their upstream development deals in Iran. In addition, Total, Vitol, Trafigura, IPG, and Glencore have backed out of exporting gasoline to Iran in light of the new U.S. sanctions law.

- The Treasury Department has undertaken targeted financial measures aimed at persuading foreign financial institutions to withdraw from doing business with Iran. Treasury claims that it has been able to cut off financing for several Iranian projects and dissuade several entities from doing business with Iran.

Several weeks after the hearing, the Treasury Department announced that it was imposing its first sanctions against private companies doing business with Iran, including certain banks and shipping companies.

THE RISE OF THE MEXICAN DRUG CARTELS AND U.S. NATIONAL SECURITY

During the 111th Congress, the Committee investigated federal efforts to combat drug smuggling on the Southwest border and the implications ongoing violence associated with Mexico's drug trade could have on Mexico's stability and U.S. security.

The Committee's investigation examined whether U.S. law enforcement agencies have sufficient tools and capabilities to prosecute Mexican drug smuggling and if efforts to curtail the smuggling of bulk cash and weapons from the United States to Mexico were succeeding. The investigation additionally assessed whether federal and state prosecutors have sufficient legal tools to bring enforcement actions against the cartels. Finally, the Committee examined whether key law enforcement agencies have addressed cooperation and coordination problems, which for years have affected key agencies responsible for eradicating drug smuggling.

Over the past decade, Mexico has become both a major producing state and transit state for illicit drugs being sent to the U.S. and Europe. Mexico is now the main foreign supplier of marijuana and a major supplier of methamphetamine to the United States. Estimates are that as much as 90 percent of all cocaine entering the U.S. now comes through Mexico. Although Mexico accounts for only a small share of worldwide heroin production, it has become a key supplier of the heroin now consumed in the U.S.

Mexico President Felipe Calderón began a national crackdown on organized crime in December 2006. Since then, nearly 30,000 people have been killed in drug-related violence in Mexico.

On July 9, 2009, the Committee held a hearing to examine these and related issues. The hearing assembled key law enforcement and intelligence officials to obtain testimony on the threats the cartels posed to U.S. security and how violence patterns could evolve. The hearing examined specific proposals to curtail Mexican cartel activities, including the Administration's Southwest Border Plan.

The Committee's investigation and hearing revealed that:

- Despite the violence that continues to plague Mexico, the Department of Justice and its affiliated agencies contend that progress is being made in the battle against Mexican cartels, due largely to the Calderón Administration's concerted and sustained efforts.

- While a number of press reports have raised concerns about drug-related violence in Mexico and its potential ‘spillover’ into U.S. communities, few officials interviewed by Committee staff expressed concerns that such activities, other than isolated incidents, were occurring. However, many top officials warned that ensuing violence could destabilize parts of Mexico, its economy, and governmental institutions.

- The DEA believes that if the drug cartels prevail in their conflict with the Calderón Administration, it would pose serious consequences for the safety and security of U.S. citizens.

- An effective way to disrupt cartel operations is to halt bulk-cash smuggling and the flow of firearms from the U.S. According to GAO’s recent report on firearms trafficking to Mexico, most of the weapons provided to the U.S. by Mexican officials for tracing purposes were not military-grade weapons.

- Customs and Border Patrol officials said they welcome the opportunity to conduct southbound (into Mexico) inspections, but to be effective these must be conducted broadly and full-time. Currently, southbound inspections are conducted on a sporadic and ad-hoc basis.

- Some relatively simple tools could make interdiction of drugs into the U.S. and detection of southbound bulk-cash and arms smuggling more effective, including non-intrusive imaging equipment, additional drug and currency sniffing dogs, shaded vehicle ports to protect inspectors from the sun, and retractable gates to prevent vehicles from simply running through check points.

- A crucial component in the fight to disrupt and dismantle drug trafficking organizations is better cooperation and coordination between counternarcotics agencies.

As a result of Committee scrutiny, both the DEA and the Immigration and Customs Enforcement agency established a process to retool a long-standing memorandum of understanding between the agencies regarding how they would cooperate on anti-narcotic smuggling operations. As cartel violence continues to escalate, the Committee will continue to review U.S. law enforcement activities and potential resource needs.

VULNERABILITIES IN THE SYSTEM USED TO ISSUE U.S. PASSPORTS

During the 111th Congress, the Committee was briefed extensively by GAO regarding a series of undercover tests it used to assess the effectiveness of the State Department’s system to process and issue passports. The purpose of those tests was to determine if the process was vulnerable to the type of fraud a criminal or terrorist might use to illegally obtain a valid U.S. passport.

GAO designed several scenarios to simulate the actions of an individual who had access to an American citizen’s personal identification information and might attempt to illegally obtain a passport. GAO used counterfeit documents and a mix of other fraudulently-obtained documents for this effort. Four different U.S. passports were issued to the same GAO investigator, each under a different name (in each case, State Department and Postal Service employees failed to detect the erroneous documents). More troubling still, GAO’s investigator was able to then purchase an airline ticket under the name used on one of the fraudulently-obtained

U.S. passports, obtain a valid boarding pass, and ultimately pass through airport security.

As a result of GAO's undercover investigation, the Committee staff held a series of meetings with State Department officials and GAO to understand how the State Department could take corrective action to strengthen the passport issuance system. One issue was whether the agency could periodically "red team" its own system to determine vulnerabilities. Moreover, questions were also posed regarding whether the Department would consider third-party evaluations of the system used to issue passports to determine how to better strengthen the system. Finally, the question was raised about how the Department could use certain additional databases that were not currently being used to validate applicants.

During the 111th Congress, the State Department was asked to periodically update the Committee on a number of changes to its passport issuance system. These included enhanced training efforts to spot fraud and using additional data bases to confirm the legitimacy of applicants. The Department also said it is considering efforts to "red team" its system to periodically identify weaknesses. Chairman Towns intends to monitor this matter to determine if vulnerabilities still exist and additional corrective actions are warranted.

CYBER THREATS AT DOE AND ITS NATIONAL LABS

The Committee inquired into a variety of information security issues related to the Department of Energy (DOE) and the National Nuclear Security Administration's (NNSA) efforts to combat cyber threats against its facilities. DOE and NNSA together oversee a number of critical programs related to the nation's nuclear weapons stockpile, special nuclear materials, weapons components, and an array of highly classified and sensitive weapons design information.

Throughout much of the past decade, certain DOE and the national labs have struggled with issues related to cyber intrusion. This is particularly relevant given the increasing reliance on the internet to communicate and share information. DOE experiences cyber assaults on a regular basis. Moreover, DOE's efforts to monitor such attacks have detected an upward trend in adversarial activity (and sophistication) over the past several years.

The Committee periodically received classified briefings provided by DOE and NNSA Chief Information Officers (and other key intelligence officials) regarding cyber security matters. While the CIOs informed the Committee that progress has been made in protecting the Department and its assets against cyber intrusions, DOE officials also conveyed that significant challenges remain. Given the importance of the DOE and NNSA complex and the ongoing information security challenges these agencies face, the Committee intends to continue its oversight role in this critical area.

THE TERRORIST ATTEMPT ON A DETROIT-BOUND U.S. JETLINER: THE CASE OF MR. UMAR FAROUK ABDULMUTALLAB

On December 25, 2009, a Nigerian national, Umar Farouk Abdulmutallab, attempted to detonate an explosive device while aboard Northwest Flight 253 from Amsterdam to Detroit. The de-

vice did not explode, but instead ignited, injuring Mr. Abdulmutallab and two other passengers. The flight crew restrained Mr. Abdulmutallab and the plane landed safely. Mr. Abdulmutallab was taken into custody and was later questioned by the FBI. It was later revealed that Mr. Abdulmutallab was not on the terrorist watchlist, but was known to the intelligence community.

Although this terrorist attack was unsuccessful, concerns were raised that all aspects of the system used to prevent terrorists from entering the U.S. should be re-examined and where necessary, adjustments made. Consequently, the Committee investigated the system which allowed Mr. Abdulmutallab to board a commercial airliner destined to the U.S. with explosive.

Specifically, the Committee sought to understand the events leading up to the December 25 attempted terrorist attack, what permitted Mr. Abdulmutallab access to the aircraft, what steps the Administration was proposing to prevent similar attempts in the future, and whether improvements are needed to facilitate the sharing of terrorism-related information among the many agencies with counterterrorism responsibilities.

As part of this effort, Committee staff attended a number of both classified and unclassified briefings on the events relating to this episode. Moreover, the Chairman also requested a comprehensive briefing by officials from the Departments of Homeland Security, State, and Justice and other law enforcement agencies.

The Committee learned that the counterterrorism agencies failed to identify and correlate key pieces of intelligence held by the government related to Mr. Abdulmutallab. While the government had sufficient information prior to the attempted December 25 attack to have potentially disrupted the plot, it failed to adequately share critical information among agencies and connect important dots. The Committee also found that the terrorist watch listing system, while not broken, was in need of improvement. The Committee intends to monitor events related to restructuring key parts of the counter terrorism effort, particularly those related to coordinating and sharing information across federal agencies.

INVESTIGATION OF ANTI-NUCLEAR SMUGGLING EFFORTS INVOLVING FOREIGN SEAPORTS

The attacks of September 11, 2001, heightened concerns that a terrorist may try to smuggle nuclear materials or a nuclear weapon into the United States. In response to this threat, several federal agencies, including the Departments of Energy, Defense, State, and Homeland Security, have implemented programs and adopted technology to combat nuclear smuggling in foreign countries and in the U.S., involving both land entry points and seaports.

In 2003, DOE began the Megaports Initiative to combat possible nuclear smuggling at major foreign seaports. This program allowed DOE and the State Department to coordinate with other foreign governments and install radiation detection equipment in a number of foreign seaports across the globe. In 2005, GAO evaluated this program and found the initiative faced a number of challenges, particularly related to the costs and the types of the detectors being deployed.

Because the nation is continually faced with terrorist threats, Chairman Towns asked GAO to evaluate the ongoing effectiveness of this program and to update its previous work. Specifically, Chairman Towns requested GAO to evaluate how this program operates, estimate its costs, and identify any major problems. In addition, because GAO had previously raised concerns about the effectiveness of the technology being used to detect radioactive materials, the Committee also requested GAO to evaluate whether the latest generation of detectors are effective and suitable for this effort. GAO is scheduled to complete this review by the spring of 2011. Chairman Towns intends to monitor events related to this important program and seek ongoing updates from both GAO and DOE.

Other Investigations

WILL ARBITRON'S PERSONAL PEOPLE METER SILENCE MINORITY OWNED RADIO STATIONS?

On December 2, 2009, the Committee held a hearing to examine whether Arbitron's use of the Portable People Meter (PPM) accurately measured radio audience listenership and whether Arbitron's use of the PPM had a disproportionately negative impact on radio stations owned by minorities or targeted toward minority listeners.

Arbitron is a radio audience research company which attempts to estimate the size of radio station audiences. The size of the radio audience determines its ratings. Arbitron sells its ratings information to broadcasters and advertisers. The higher a station's Arbitron rating, the more advertisers it attracts and the higher the rate it may charge for advertising. Therefore, the viability and profitability of a majority of stations is directly tied to its ratings. Arbitron has a virtual monopoly on radio ratings services in the United States.

Prior to 2007, many minority-owned and targeted radio stations enjoyed high ratings and relative profitability as they served their communities. At the time, Arbitron produced ratings using the "diary method" in which panelists listed the names of radio stations and the duration of time they listened, and submitted their diaries to Arbitron weekly. Arbitron recruited a large panel of radio listeners to supply ratings information and the group accurately represented the demographics of the population being surveyed. This method was considered reliable and was therefore accredited by the Media Rating Council (MRC) which establishes industry standards for audience measurement.

In 2007, Arbitron began using the PPM to measure radio audiences in various markets. The PPM is intended to be carried by individuals and records the radio stations that the individual hears within a given time period. The recorded information is then transferred to Arbitron and used to produce ratings. The number of panelists Arbitron recruited to carry the PPM was 66 percent smaller than the panels which submitted diaries. The panels did not reflect the demographics of the populations being surveyed.

Since the introduction of this new device, the ratings of radio stations owned by minorities or targeted toward minority audiences precipitously dropped by as much as 70 percent. Due to these lower

ratings, the advertising revenue at these stations has also declined dramatically. As a result, minority-owned radio stations, which account for only 2 percent of all radio stations in the nation, were suddenly on the brink of extinction. The issue posed such an immediate threat to diversity in radio that it prompted lawsuits by the Attorneys General in four states (NY, NJ, MD, and FL), on the grounds that methodological flaws in PPM's data collection have resulted in the under-representation of particular ethnic and age groups.

The issues raised by Arbitron's use of the PPM include the following: (1) the methodology used by Arbitron to generate PPM data is flawed in that it undercounts minority listeners; (2) the number of people recruited to participate in the PPM ratings panel is too small to be an accurate representation of the market it measures; (3) the people recruited to participate in the PPM ratings panel are not representative of the ethnic demographics of the community surveyed; (4) Arbitron does not sufficiently train panelists to use PPM to maximize data reliability; (5) PPM technology does not accurately record and/or transmit data pertaining to panelists' actual radio exposures; and (6) Arbitron has failed to obtain accreditation from the MRC for use of its PPM in the majority of markets in which the device is the exclusive method of measuring radio audiences.

At the hearing, the Committee received key testimony from Arbitron's CEO (Michael Skarzynski), CEO of the MRC (George Ivie), CEO of Minority Media and Telecommunications Council (Michael Honig), CEO's of two minority owned radio systems (Charles Warfield and Frank Flores), and an Audience Measurement Specialist (Ceril Shagrin).

As a direct result of the Committee's investigation and hearings:

- Arbitron's CEO, Michael Skarzynski was fired for making material misrepresentations in his testimony before the Committee regarding Arbitron's efforts to improve diversity among audience measurement panelists. Mr. Skarzynski claimed to have personally participated in recruitment of minority panelists in Maryland and his claim was discredited by other Arbitron executives.
- Arbitron committed to making significant changes in the methodology by which it recruits its audience measurement panelists to preserve the demographic diversity of its markets. Establishment of internal quality control metrics and hiring of appropriate research experts are included in this effort.
- Arbitron committed to improve training of its audience measurement panelists to maximize the reliability of data transmitted by the PPM device.
- Arbitron committed to continue its efforts to obtain MRC accreditation for use of PPM in all major radio markets in the nation.
- As part of its improvement plan, Arbitron meets with representatives of minority radio station owners and the MRC on a monthly basis to consult with and collaborate on PPM methodology improvement.

The Committee is continuing to monitor Arbitron's efforts to improve its PPM methodology and receives monthly reports of steps taken to improve the reliability of the device.

OFFSHORE DRILLING: WILL INTERIOR'S REFORMS CHANGE ITS HISTORY
OF FAILED OVERSIGHT?

On July 22, 2010, the Committee held a hearing to examine the Department of the Interior's efforts to reorganize the Minerals Management Service (MMS) following the *Deepwater Horizon* oil rig explosion and subsequent oil spill. MMS was responsible for leasing, permitting, and inspecting offshore oil drilling and production operations and collecting oil and gas royalties. Following the *Deepwater Horizon* incident, the Secretary of the Interior announced that the MMS would be divided into three separate entities. The stated goal of the reorganization was to increase oversight and accountability over offshore drilling activities, improve royalty collection, and provide independent environmental and safety enforcement.

In preparation for the hearing, the Chairman and the Committee staff traveled to the Gulf Coast to be briefed by Interior and Coast Guard officials, and tour the site of the BP oil spill. In addition, the Committee staff interviewed MMS regional and district office personnel regarding their roles and responsibilities related to oversight of offshore oil and gas drilling and production, and their views on the planned reorganization. These interviews provided insight to the problems faced by MMS and the planned reorganization efforts, including the recruitment of qualified inspectors; the adequacy of resources; ethical failures; and the adequacy of regulations, oil spill response plans, and environmental reviews.

The Committee's investigation and hearing revealed that:

- All Gulf of Mexico district office personnel interviewed expressed difficulties in recruiting, retaining, and training qualified inspectors. Recruitment is hindered by the fact that Interior cannot offer salaries that are competitive with those of the oil industry.
- The number of people overseeing offshore operations has not kept pace with the increase in drilling and production operations.
- As of 2009, 80 percent of offshore oil production and 45 percent of natural gas production occurred at depths greater than 1,000 feet. As the *Deepwater Horizon* incident demonstrates, drilling in deep water amplifies the complexity of drilling and oil spill clean-up.
- The agency's research budget for developing oil spill response technology has only increased by roughly \$1 million since 1993—from \$5.3 million to \$6.3 million. The agency's budget for developing technology has actually decreased when adjusted for inflation.
- Close ties with the oil industry have repeatedly contributed to ethical failures within the agency. Despite claims from Gulf personnel that prior scandals are "old news," the New Orleans district office is currently investigating ethical violations by an inspector for falsifying inspection reports and sleeping on the job.
- The revolving door is still spinning: of 11 former MMS directors, at least three worked for oil and gas companies before their employment with MMS and, after serving as directors, seven worked as lawyers, consultants, or board members in the energy sector. Two of these directors became presidents of the National Ocean Industries Association, an oil and gas lobbying firm that seeks to limit federal regulation of the oil and gas industries.

- Interior Department regulations have not kept pace with technological developments in deepwater exploration and production operations. Moreover, current regulations rely significantly on the industry to perform key safety functions.

- Interior approved BP's oil spill response plan for the *Deepwater Horizon*, without fully reviewing and verifying it. Moreover, the MMS Oil Spill Program Administrator for the Gulf of Mexico Regional Office told Committee investigators that the models used to predict the effects of an oil spill may be outdated and regulations related to oil spill response plans need to be revisited. This raises the question of whether Interior needs to reexamine all of the oil spill response plans that are currently in place, to ensure they are adequate.

- The environmental impact statement approved by Interior for the *Deepwater Horizon* contained ludicrous inaccuracies, e.g., references to walruses in the Gulf of Mexico.

The Chairman concluded that:

- Offshore oil drilling can no longer be regulated on the "honor system;" there must be rigorous federal oversight and effective enforcement of existing regulations.

- Conflicts of interest must be eliminated. Royalty collections must be entirely separate from regulation and enforcement.

- The environmental impact statements for current offshore oil drilling operations in the Gulf should be reopened and closely reviewed.

- Oil spill response plans must be realistic.

- There must be an effective and proven technology available to prevent blowouts in deep water before we allow deepwater drilling to resume.

TOYOTA GAS PEDALS: IS THE PUBLIC AT RISK?

Incidents involving sudden, unintended acceleration by Toyota vehicles have resulted in thousands of complaints, have been attributed to several accidents, and have been linked to injuries and deaths. As a result, between September 2009 and February 2010, Toyota recalled almost 10 million vehicles in two separate recalls and halted production of several models. The first recall, in September 2009, Toyota attributed to the accelerator pedal becoming entrapped by the floor mat. The second recall, in January 2010, Toyota attributed to a physical defect in the accelerator pedal that may cause the pedal to become stuck in a depressed position.

On January 26, 2010, Toyota announced it would halt the manufacturing and sale of eight models of vehicles while it could finalize a remedy for the problem. Two days later, on January 28, 2010, the company announced that it would recall vehicles in Europe and China with gas pedal issues.

Experts and consumers questioned the idea that the unintended acceleration of Toyota vehicles could be fully explained by sticking gas pedals or interference with floor mats. The Committee staff found numerous complaints made to DOT's National Highway Traffic Safety Administration (NHTSA) describing sudden acceleration that was not caused by either floor mats or sticky pedals. As a result, attention was also focused on the electronic throttle control system to determine whether sudden acceleration may be at-

tributable to a software design problem or perhaps to electromagnetic interference.

According to NHTSA officials, the agency had entertained the possibility of an electronics problem before, but was not able to find a link to the sudden acceleration problem. Nevertheless, NHTSA announced that it had begun another look at this problem. In response, Toyota stated that, “it is entirely unlikely that an electronic malfunction is the cause.”

As recalls mounted, concern intensified that Toyota was failing to provide sufficient detail to both the public and to regulatory agencies about potential defects behind these recalls. By February 2010, nearly 10 million Toyotas on U.S. highways were subject to recall. Most of these involved reports of sudden, unintended acceleration that Toyota asserted were related to floor mat entrapment or sticking accelerator pedals. Because it was unclear if these problems were the root causes of all sudden unintended acceleration events, however, some Toyota owners questioned whether their vehicles were safe to drive.

In early 2010, Chairman Towns began an investigation of these issues. The investigation focused on whether Toyota vehicles were safe to drive, why certain models were subject to recall, and whether sufficient information about possible safety defects had been communicated to consumers by both Toyota and regulatory authorities. As part of this effort, the committee also sought information from NHTSA to determine whether the federal government had adequately investigated the root causes behind the recalls or had the technical capacity to conduct such examinations.

In the course of the investigation, Chairman Towns issued a subpoena for documents in the possession of Dimitrius Biller, a former Toyota in-house lawyer who had handled safety defect litigation. Mr. Biller alleged that Toyota had for years systematically withheld relevant documents that were required to be produced under court order in tort litigation against the company. Mr. Biller claimed that Toyota was well aware of design flaws that caused serious safety problems in its vehicles, but had covered up those problems.

On February 24, 2010, the Committee held a hearing to examine issues relating to Toyota’s recalls. The Secretary of Transportation and the President and CEO of Toyota both provided testimony, as did consumer advocates for auto safety. Witnesses at the hearing raised concerns about Toyota’s timeliness and transparency in informing regulators and the public about recall-related safety concerns.

The Committee’s investigation and hearing revealed that:

- There have been several fatal and non-fatal crashes and non-crash incidents involving sudden, unintended acceleration of Toyota vehicles in which floor mats and sticky gas pedals did not appear to be a factor.
- Toyota knew it had a possible safety defect involving sticking gas pedals well before it reported this information to NHTSA.
- Toyota withheld key, relevant records that it was required to produce in response to the Committee’s discovery requests.
- Toyota withheld key, relevant records that it was required to produce in response to certain court discovery orders.

- Contrary to its public representations, Toyota was continuing to fight discovery of records relating to alleged safety defects in its vehicles in one or more ongoing court cases.
- The system used by NHTSA to gather and analyze consumer complaints of possible safety defects needs to be redesigned to facilitate recognition of trends that indicate problems.

As a result of the Committee's investigation, the Secretary of Transportation said he would assess how well NHTSA was gathering critical information on possible defects and whether the agency had the requisite technical resources to conduct such analysis. The Secretary also announced that DOT would undertake a separate inquiry into the possible causes of sudden, unintended acceleration in Toyota vehicles, and would use the expertise and resources of engineers at the National Aeronautics and Space Administration (NASA) to determine whether Toyota's sudden acceleration events were caused by problems with the electronic throttle control system, including the possibility of electromagnetic interference. That assessment is underway and its results should be available by the end of 2010. Finally, as part of the Committee's investigation, GAO was asked to conduct an evaluation of NHTSA's recall system and whether it is keeping the driving public safe.

The Committee's investigation is still open, pending the results of the NASA study and GAO's evaluation of NHTSA's recall system.

IS BROOKLYN BEING COUNTED?—PROBLEMS WITH THE 2010 CENSUS

The Census Bureau conducts a national census every ten years for the purpose of determining Congressional apportionment, as mandated by the Constitution. The current census commenced on March 2010, with the final report to be delivered to the President in December 2010. Title 13 of the United States Code governs how the census is conducted, the confidentiality of requested information, and how the data is to be handled.

On July 19, 2010, the Committee held a hearing to examine the unauthorized use of data to complete census surveys by two former census employees at the Brooklyn North East local census office (Brooklyn LCO). The Committee was informed by Census Bureau Headquarters that complaints were received by the Department of Commerce Inspector General's hotline alleging unauthorized use by census employees of an online database to complete census questionnaires. The complaints were forwarded to the Census Bureau Headquarters and the NY Regional Director. An investigation was initiated and the two offending census employees were fired from their positions, four days after the complaints were logged.

At this hearing, the Committee received testimony from the Director of the Census Bureau, the Department of Commerce Inspector General and the Regional Director of the NY Regional Census Center detailing the steps of their investigation and the action taken to correct any cases affected by the fraudulent activity.

The Committee's investigation and hearing revealed that:

- The Whistleblower Protection Act worked as it was intended in this case.
- The Census Bureau conducted a timely and effective investigation prevent further fraudulent activity.

- The Census Bureau had acted immediately to verify and correct the suspect information.

PEER-TO-PEER FILE SHARING: HOW IT ENDANGERS CITIZENS AND
JEOPARDIZES NATIONAL SECURITY

Peer-to-peer (P2P) software allows computer users to share files on their computers directly with other users of the P2P network. Over the past few years, the number of P2P users has grown exponentially. In any given moment, there are approximately 20 million people using P2P software.

P2P technology is most commonly used to share music, movies, documents, and photos. While there are legitimate uses of P2P software, it has become increasingly problematic. Millions of people around the world use P2P software to intentionally share and download copyrighted music and movies. Others, with more sinister intentions, use this same software to distribute child pornography and other illicit information.

Perhaps most important, once P2P software is installed on a computer, it permits millions of users located around the world to search other users' hard drives for Social Security numbers, photos, tax returns, medical records, and confidential files. The surreptitious copying and distribution of confidential files via P2P software has increased significantly and endangers the privacy and security of citizens, businesses, and government agencies.

In 2008 and 2009, several security breaches involving sensitive information were discovered and, in some cases, widely reported by the news media. The leaks included the wiring schematics for the "Marine One" helicopter, which were downloaded in Iran; the Social Security numbers of numerous private citizens, including Supreme Court Justice Breyer; private tax returns; and medical files.

On July 29, 2009, the Committee held a hearing to examine the continued security and privacy risks associated with the use of P2P software, including LimeWire, which is the most widely used P2P software in the U.S. The hearing featured testimony by Mr. Mark Gorton, Chairman of the LimeWire Group, who asserted that changes to his company's software now prevent inadvertent file sharing. In addition, computer software experts demonstrated how LimeWire enables illicit file sharing. This was a follow-up to Mr. Gorton's 2007 testimony before the Committee, in which he testified that he *"had no idea there was that amount of classified information out there or that there are people actively looking for that and looking for credit card information."* At the 2007 hearing, Mr. Gorton committed to making significant changes to the software.

The Committee's investigation and hearing revealed that:

- LimeWire's claims that it had made changes to its software to prevent the unwanted theft of sensitive and personal information were unsupported and were demonstrably ineffective.
- Numerous tax returns, bank records, health records, military files, corporate documents, and other highly sensitive private files can easily be found and copied by searching the LimeWire network.
- Detailed information about U.S. military programs and service members, individual tax returns, and personal medical information is still readily accessible on the LimeWire network.
- Private citizens, businesses, and the government continue to be victims of dangerous unintended and illicit file sharing.

Chairman Towns concluded that leaks of highly sensitive government, military, and contractor documents on P2P networks are so numerous and so serious that P2P software should be banned from use on government and government contractor computers. In addition, Chairman Towns introduced H.R. 4098, the Secure Federal File Sharing Act, a bill that restricts the use of P2P file sharing software across the federal government. On March 25, 2010, the bill passed the House by a vote of 408 to 13.

CLOUD COMPUTING: BENEFITS AND RISKS OF MOVING TO THE CLOUD

Cloud computing is a system in which all computer resources, including software, data processing, and data storage capability, are maintained in a central computer (rather than maintained on individual, personal computers as it almost universally is now), which is shared and accessible by authorized users.

In September 2009, the Obama Administration announced the Federal Cloud Computing Initiative, which proposes to shift all government computing to the cloud paradigm (commonly referred to as “moving to the cloud”).

On July 1, 2010, the Full Committee, in conjunction with the Subcommittee on Government Management, Organization, and Procurement, held a hearing to examine the benefits and risks of moving federal computing into the cloud. Chief among the benefits are cost savings and improved efficiency. However, security and privacy remain significant areas of concern. Federal Chief Information Officer, Vivek Kundra, called cloud computing a “game-changing technology,” but also warned that the shift to cloud computing could take ten years. Several industry leaders in cloud computing testified to the barriers the federal government faces, including the burdensome and fragmented security certification process and unique acquisition challenges.

The Committee intends to continue to examine this issue, including government-wide implementation plans, progress on establishing information security standards, the extent to which FY 2012 budget submissions adequately reflect data center consolidation plans, and an analysis of cloud computing technology alternatives.

THE WASHINGTON METRO SYSTEM: SAFETY, SERVICE, AND STABILITY

The Washington Area Metropolitan Transit Authority (WMATA or Metro) operates rail, bus, and paratransit service for the Washington Metropolitan Region. Recent safety and financial problems have brought heightened attention to problems faced by the system. On June 22, 2009, a collision between two trains along the Red Line near Fort Totten caused the deaths of nine people and injured 80 others. Since then, there have been five additional major rail accidents in which another four people died.

In the wake of the Fort Totten crash, Senator Mikulski and Transportation Secretary LaHood requested FTA to perform a special audit of WMATA and its oversight body, the Tri-State Oversight Committee.

On Thursday April 21, 2010, the Committee held a hearing to review the results of the FTA audit and to examine other major issues confronting the Washington Metro system as it transitions to new leadership. FTA Administrator Peter Rogoff appeared before

the Committee to discuss the audit and the accompanying safety recommendations. The committee also heard testimony from Richard Sarles, the Metro Interim General Manager, and Peter Benjamin, the Chairman of the Metro Board of Directors. Each discussed Metro's ongoing safety issues and the \$189 million budget gap facing WMATA in fiscal year 2011.

The Committee's investigation and hearing revealed that:

- The Metro Board of Directors had commissioned and kept secret a report by former Metro General Manager David Gunn, which found that Metro's poor safety and maintenance conditions were system-wide and far worse than publically acknowledged. Chairman Towns released the report at the hearing.
- While the Tri-State Oversight Committee has the responsibility to oversee safety on the Metro system, it has no full time staff, no inspectors, no auditors, and no enforcement power.
- The Metro bus system is in good shape.
- The Metro rail system is in decline. Years of deferred maintenance and management problems have caused significant deterioration of the Metro rail system and seriously undermined passenger safety.
- The Metro rail system has major organizational and managerial problems. For example, Mr. Gunn found that there was so much bad blood between the maintenance and engineering departments that they literally would not even speak to each other.
- Deferred maintenance has reached the crisis stage. Mr. Gunn told Committee investigators that in the two weeks he rode the rail system, there were two derailments, one of which he witnessed. He also found a broken rail on the main line. In addition, seven station platforms—which are made of reinforced concrete—were being shored up by wood.

Chairman Towns concluded that the selection of a new General Manager, with the operational experience and the managerial authority to do what is necessary, is likely to be key to reversing the decline. In addition, it is clear that Metro needs a stable source of funding, at a high enough level to properly maintain full service on the system and to ensure passenger safety. Finally, the Tri-State Oversight Committee needs to be restructured to eliminate political and philosophical gridlock, and a system of effective safety oversight and enforcement needs to be adopted.

V. LEGISLATIVE ACCOMPLISHMENTS

A. INTRODUCTION

The legislative jurisdiction of the Committee on Oversight and Government Reform includes the federal civil service, the District of Columbia, federal open government and good government laws, the economy, efficiency, and management of government operations and activities, including federal procurement and Inspectors General, the Census, the Postal Service, and public information and records.

Improving the efficiency of government operations and saving tax dollars by eliminating waste, fraud, and abuse in government programs were primary areas of legislative focus during the 111th Congress. The Committee approved legislation to provide the government with the tools it needs to recover overpayments for the

American taxpayers and stop them from occurring in the first instance. The Oversight Committee also advanced legislation to strengthen the internal watchdogs at government agencies, improve the investigative and auditing arm of Congress, empower federal workers to fight fraud and waste without fear of retaliation, improve government efficiency by facilitating the sale of surplus federal real property, hold government agencies more accountable for performance and efficiency goals, and save hundreds of millions of tax dollars by expediting the transition of government-wide telecommunication services.

The Oversight Committee's efforts to strengthen the federal civil service resulted in significant reforms to federal retirement planning and benefits, changes that will improve the government's ability to recruit and retain the best and brightest Americans for federal service. Oversight Committee efforts also were critical in strengthening accountability and transparency at the newly-created Consumer Financial Protection Bureau, established as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and ensuring that employees of the Bureau are provided with important workplace protections, such as whistleblower and collective bargaining rights.

The Committee took action to improve the openness and transparency of the federal government. As one of its first legislative actions in the 111th Congress, the House passed Oversight Committee legislation to ensure email records from federal agencies and the White House are preserved. The Committee enacted legislation to make information provided by the government more accessible by requiring agencies to use plain writing in government documents. The Committee protected public access to information under the Freedom of Information Act (FOIA) in numerous measures including the Dodd-Frank Act and the Intelligence Authorization Act for Fiscal Year 2010. The Committee worked to improve the transparency of federal advisory committees through legislation to strengthen the Federal Advisory Committee Act.

The Committee sought to enhance the viability and sustainability of the United States Postal Service through legislation rationalizing the organization's cost structure, as well as by examining its practices, legal and regulatory environment structure, and business strategies. The Committee approved legislation, eventually passed by the House and Senate in September 2009, to lower the Postal Service's FY 2009 retiree health benefits pre-funding requirement from an unsustainable \$5.4 billion to a more reasonable \$1.4 billion. A Full Committee hearing, held jointly with the Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, highlighted the Postal Service's proposals for future revenue growth and reducing costs, as well as the finding by the Office of the Inspector General that the Postal Service had been charged an excessive amount, in the range of \$55 to \$75 billion, in payments to the Civil Service Retirement System pension fund since the 1970s.

B. BILLS AND AMENDMENTS ENACTED INTO LAW

H.R. 22, the United States Postal Service Financial Relief Act of 2009. As introduced by Rep. McHugh on January 6, 2008, H.R. 22 permitted the Postal Service to make payments for the health in-

surance premiums of its current retirees out of the Retiree Health Benefits Fund (RHBF). As amended by the House, H.R. 22 reduced the FY 2009 Postal Service payment into the RHBF from \$5.4 billion to \$1.4 billion.

History: Introduced on January 6, 2009; Committee approved, as amended, on July 21, 2009; House passed with an amendment on September 15, 2009; the provisions of H.R. 22 were signed into law as part of H.R. 2918 (P.L. 111-68).

H.R. 131, the Ronald Reagan Centennial Commission Act. Introduced by Rep. Gallegly on January 6, 2009, the bill establishes the Ronald Reagan Centennial Commission,' tasked with planning, developing, and carrying out activities to honor Ronald Reagan on the 100th anniversary of his birth.

History: Introduced January 6, 2009; Committee approved, as amended, on February 11, 2009; House passed March 9, 2009; signed into law June 2, 2009.

H.R. 828, the FERS Redeposit Act. Introduced by Rep. Moran on February 3, 2009, the bill strengthens the federal government's ability to recruit experienced workers by allowing former federal employees to receive credit toward retirement if they make a payment to buy back their earlier years of service. The provisions of this bill were incorporated into H.R. 2647, the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84).

History: Introduced on February 3, 2009; Committee approved March 18, 2009 (as an amendment to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act); House passed April 1, 2009 (as part of H.R. 1804, the Federal Retirement Reform Act of 2009) and June 25, 2009 (as part of Division D of H.R. 2647); the provisions of this bill were included in H.R. 2647(P.L. 111-84); signed into law on October 28, 2009.

H.R. 885, the Improved Financial and Commodity Markets Oversight and Accountability Act. Introduced by Rep. Larson on February 4, 2009, the bill makes changes to the appointment process for the Inspectors General at five financial regulatory agencies to increase the independence and effectiveness of these Inspectors General. The bill also holds financial regulatory agencies accountable by requiring the agencies to take corrective action to address deficiencies identified by the Inspector General. The provision on corrective responses was signed into law as part of H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203). H.R. 4173 also amends the appointment and removal authority for certain Inspectors General, including those covered by H.R. 885, by requiring that appointment and removal actions be taken by a bipartisan Board or Commission.

History: Introduced on February 4, 2009; Committee approved May 18, 2009; House passed June 8, 2009; provisions of this bill were included in H.R. 4173, which was signed into law on July 21, 2010.

H.R. 946, Plain Writing Act of 2010. Introduced by Rep. Braley on February 10, 2009, H.R. 946 improves the transparency and accountability of the federal government by requiring federal agencies to use plain language in many government documents and by requiring agencies to take action such as training employees how to write in plain language.

History: Introduced on February 10, 2009; Approved by the Committee as amended on March 4, 2010; passed by the House as

amended on March 17, 2010; passed by the Senate with amendments on September 27, 2010; House agreed to the Senate amendments on September 29, 2010; signed into law on October 13, 2010.

H.R. 1164, the CSRS Retirement Repayment Technical Correction Act of 2009. Introduced by Rep. Van Hollen on February 24, 2009, this legislation provides relief for federal employees who were unfairly impacted by congressional enactment of the Omnibus Reconciliation Act of 1990. The provisions of this bill were incorporated into H.R. 2647, the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111–84).

History: Introduced on February 24, 2009; Committee approved March 18, 2009 (as an amendment to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act); House passed April 1, 2009 (as part of H.R. 1804, the Federal Retirement Reform Act of 2009) and June 25, 2009 (as part of Division D of H.R. 2647); the provisions of this bill were included in H.R. 2647 (P.L. 111–84); signed into law on October 28, 2009.

H.R. 1263, the Federal Retirement Reform Act of 2009. Introduced by Rep. Lynch on March 3, 2009, the bill makes significant changes to modernize and enhance the Thrift Savings Plan (TSP) and provides for other changes to strengthen federal employee retirement benefits. The TSP provisions in this bill, including the establishment of a “Roth” option for federal employees and military personnel, were incorporated into H.R. 1256, the Family Smoking Prevention and Tobacco Control Act (P.L. 111–31). The Federal retirement provisions were incorporated into H.R. 2647, the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111–84).

History: Introduced on March 3, 2009; Committee approved on March 18, 2009 (as an amendment to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act); House passed April 1, 2009 (as part of H.R. 1804, the Federal Retirement Reform Act of 2009) and June 25, 2009 (as part of Division D of H.R. 2647); the TSP provisions of this bill were included in H.R. 1256, which was signed into law on June 22, 2009; the other federal retirement provisions were included in H.R. 2647, which was signed into law on October 28, 2009.

H.R. 1266, the Non-Foreign AREA Act of 2009. Introduced by Rep. Abercrombie on March 3, 2009, the legislation ensures retirement equity for federal workers in Hawaii, Alaska, and the U.S. Territories and enhances the government’s efforts to recruit and retain Federal workers in these areas. The provisions of this bill were incorporated into H.R. 2647, the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111–84).

History: Introduced on March 3, 2009; House passed June 25, 2009 (as part of Division D of H.R. 2647); the provisions of this bill were included in H.R. 2647; signed into law on October 28, 2009.

H.R. 1341, the Special Inspector General for the Troubled Asset Relief Program Act of 2009. Introduced on March 5, 2009, by Rep. Moore, the bill strengthens the audit and investigative authority of the Special Inspector General for the Troubled Asset Relief Program to ensure that the IG is able to audit and investigate all government actions under the TARP program. Similar legislation, S. 383, was signed into law on April 24, 2009.

History: Introduced on March 5, 2009; House passed (as S. 383) on March 25, 2009; S. 383 signed into law on April 24, 2009.

H.R. 1506, to provide that claims of the United States to certain documents relating to Franklin Delano Roosevelt shall be treated as waived and relinquished in certain circumstances. H.R. 1506 facilitates the donation of the Grace Tully Archive to the National Archives and Records Administration.

History: H.R. 1506 was introduced on March 12, 2009; approved by the Committee on October 29, 2009; passed the House on November 16, 2009; a companion bill, S. 692, was signed into law on February 1, 2010.

H.R. 1517, a bill to allow certain U.S. Customs and Border Protection employees who serve under an overseas limited appointment to be converted to a permanent appointment in the competitive service. Introduced by Rep. Engel on March 16, 2009, the bill provides authority to the Commissioner of Customs and Border Protection to convert certain overseas positions from limited appointments to permanent civil service positions.

History: Introduced on March 16, 2009; House passed on December 15, 2009; Senate passed, with amendments, on August 5, 2010; House passed on September 23, 2010, with Senate amendments; signed into law on October 5, 2010.

H.R. 1722, the Telework Enhancement Act of 2010. Introduced by Rep. Sarbanes on March 25, 2009, H.R. 1722 promotes greater utilization of telework by the federal government to promote cost savings and reduce energy consumption and traffic congestion.

History: Introduced on March 25, 2009; Committee approved on April 14, 2010; House passed on July 14, 2010; Senate passed, with amendments, on September 30, 2010; House passed the Senate amendments on November 18, 2010; signed into law on December 9, 2010.

H.R. 2142, Government Efficiency, Effectiveness, and Performance Improvement Act of 2010. Introduced by Rep. Cuellar on April 28, 2009, H.R. 2142 improves the efficiency and accountability of federal agencies by requiring each agency to identify ambitious goals and assess progress toward achieving those goals. The bill strengthens the Government Performance and Results Act of 1993 and codifies elements of an Executive Order on performance management.

History: H.R. 2142 was introduced on April 28, 2009; approved by the Committee as amended on May 12, 2010; passed the House as amended on June 16, 2010; Senate passed, with amendments, on December 16, 2010; House passed the Senate amendments on December 21, 2010; presented to the President on December 29, 2010.

H.R. 2711, the Special Agent Samuel Hicks Families of Fallen Heroes Act. Introduced by Rep. Rogers on June 4, 2009, the bill authorizes the government to pay necessary expenses to relocate the family of a federal law enforcement officer who is killed in connection with his or her official duties.

History: Introduced on June 4, 2009; Committee approved on September 29, 2009; House passed on December 8, 2009; Senate passed May 14, 2010, with an amendment; House passed Senate amendments on May 25, 2010; signed into law on June 9, 2010.

H.R. 3393, the Improper Payments Elimination and Recovery Act of 2010. Introduced by Rep. Patrick J. Murphy on July 29, 2009, the bill amends the Improper Payments Information Act of 2002 to expand requirements for identifying programs and activities sus-

ceptible to improper payments by requiring the head of each federal agency to review and identify agency programs and activities that may be susceptible to significant improper payments. The bill also requires the agencies which make significant improper payments to implement internal controls and other procedures to help eliminate any future significant improper payments.

History: Introduced on July 29, 2009; House passed, as amended, on April 28, 2010; Senate passed a companion bill, S. 1508, June 23, 2010; House passed S. 1508 on July 14, 2010; signed into law July 22, 2010 (P.L. 111-204).

H.R. 4621, the Prevent Deceptive Census Look Alike Mailings Act. Introduced by Rep. Maloney on February 9, 2010, H.R. 4621 requires mailings which feature the term “census” on the envelope to include disclaimers making it clear that the mailings are not the official U.S. Census and are not from the United States Government.

History: Introduced on February 9, 2010; Committee approved on March 4, 2010; House passed March 10, 2010; Senate passed on March 26, 2010; signed into law on April 7, 2010.

H.R. 4786, a bill to provide authority to compensate federal employees for the 2-day period in which authority to make expenditures from the Highway Trust Fund lapsed. Introduced by Rep. Connolly on March 10, 2010, the bill ensures that certain federal employees received pay for a 2-day period in which funds were not authorized to be spent from the Highway Trust Fund, causing these employees to be furloughed. The bill was incorporated in H.R. 4851, the Continuing Extension Act of 2010, which was signed into law on April 15, 2010.

History: Introduced on March 10, 2010; House passed on March 10, 2010; signed into law on April 15, 2010 (P.L. 111-157).

H.R. 5148, a bill to amend title 39, United States Code, to clarify the instances in which the term “census” may appear on mailable matter. Introduced by Rep. Issa on April 27, 2010, H.R. 5148 amended H.R. 4621, which required disclaimers on mailings that feature the term “census” appearing on the envelope, to clarify that the requirement applied to mailings where the term census is printed on the inside of the envelope, but visible through the envelope.

History: Introduced on April 27, 2010; House passed on April 28, 2010; Senate passed May 5, 2010; signed into law on May 24, 2010.

H.R. 6086, to amend the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to provide for certain disclosures under section 552 of title 5, United States Code. Introduced by Rep. Towns on August 10, 2010, H.R. 6086 strikes a Freedom of Information Act (FOIA) exemption that was included in section 929I of the Dodd-Frank Act and clarifies that the SEC can protect sensitive records obtained under its examination authority by using an existing FOIA exemption covering records of financial institutions.

History: H.R. 6086 was introduced on August 10, 2010; a companion bill, S. 3717, passed the Senate on September 21, 2010; passed the House on September 23, 2010; was signed into law on October 5, 2010.

S. 1510, United States Secret Service Uniformed Division Modernization Act of 2010. Introduced on July 23, 2009 by Sen.

Lieberman, the legislation modernizes the pay and hiring authorities for the U.S. Secret Service's Uniformed Division. The legislation is necessary to address long-standing recruitment and retention problems in the Uniformed Division.

History: Introduced on July 23, 2009; Committee approved on April 14, 2010; House passed on June 28, 2010, with an amendment; Senate passed with further amendment on September 27, 2010; House agreed to the Senate amendments September 30, 2010; signed into law on October 15, 2010.

S. 2868, the Federal Supply Schedules Usage Act of 2010. Introduced by Sen. Joseph I. Lieberman on December 10, 2009, the bill authorizes the Administrator of General Services to provide for the use of Federal Supply Schedules by the American National Red Cross and other qualified organizations (as described in the Robert T. Stafford Disaster Relief and Emergency Assistance Act) to facilitate emergency disaster preparedness and relief.

History: Introduced on December 12, 2009; Senate passed on May 24, 2010; Committee on Oversight and Government Reform reported, as amended, on September 14, 2010; House passed, as amended, on September 15, 2010; Senate agreed to the House amendments on September 27, 2010; signed into law on October 8, 2010.

S. 3794, the FOR VETS Act of 2010. Introduced on September 16, 2010, by Sen. Patrick Leahy, the legislation authorizes the transfer of federal surplus personal property to state agencies for distribution through donation within the states for education or public health purposes to veteran organizations which are recognized by the Secretary of Veterans.

History: Introduced on September 16, 2010, in Senate; Senate passed with amendment on September 29, 2010; House passed on December 14, 2010; signed into law on December 22, 2010.

H.R. 6278, Kingman and Heritage Islands Act of 2010. Introduced by Congresswoman Norton on September 29, 2010, H.R. 6278 would permit the District of Columbia to utilize the Kingman and Heritage Islands for recreational, environmental, educational, or education purposes in accordance with the Anacostia Framework Plan and the District's Comprehensive Plan. A substantially similar bill, H.R. 2092, was previously passed by the House on October 7, 2009.

History: Introduced on September 29, 2010; House passed on November 16, 2010; Senate passed on December 13, 2010; signed into law on December 22, 2010.

C. BILLS PASSED BY THE HOUSE

H.R. 35, Presidential Records Act Amendments of 2009. Introduced by Rep. Towns on January 6, 2009, H.R. 35 improves public access to presidential records by establishing a process for the current and former president to review presidential records and decide whether to claim executive privilege to prevent the release of the records.

History: H.R. 35 was introduced on January 6, 2009; passed by the House on January 7, 2009.

H.R. 36, Presidential Library Donation Reform Act of 2009. Introduced by Rep. Towns on January 6, 2009, H.R. 36 requires organizations that raise funds for presidential libraries and their affili-

ated facilities to disclose information about their donors to Congress and the National Archives and Records Administration (NARA). The bill further requires NARA to make that information available to the public in a searchable format.

History: H.R. 36 was introduced on January 6, 2009; passed by the House on January 7, 2009.

H.R. 626, Federal Employees Paid Parental Leave Act of 2009. Introduced by Rep. Maloney on January 22, 2009, the bill allows federal employees to take 4 weeks of paid parental leave upon the birth, adoption, or fostering of a child.

History: Introduced on January 22, 2009; Committee approved on May 6, 2009; House passed on June 4, 2009.

H.R. 1320, Federal Advisory Committee Act Amendments of 2010. Introduced by Rep. Clay on March 5, 2009, H.R. 1320 would strengthen the Federal Advisory Committee Act and close loopholes that have developed in the implementation of the Act. The bill promotes the independence of advisory committees by requiring that committee members be appointed without regard to political affiliation. The bill also provides that committee members who are appointed as experts must comply with conflict of interest and other ethics requirements. H.R. 1320 improves the transparency of advisory committees by requiring agencies to disclose more information about committees.

History: H.R. 1320 was introduced on March 5, 2009; approved by the Committee on March 10, 2009; passed by the House as amended on July 26, 2010.

H.R. 1323, Reducing Information Control Designations Act. Introduced by Rep. Driehaus on March 18, 2009, H.R. 1323 standardizes and limits the use of information control designations. The bill requires the Archivist to promulgate regulations regarding the use of information control designations, requires federal agencies to implement those regulations in a manner that reduces and minimizes the use of information control designations, and requires the inspector general of each federal agency to randomly audit unclassified information with information control designations.

History: H.R. 1323 was introduced on March 5, 2009, approved by the Committee on March 10, 2009; passed the House on March 17, 2009.

H.R. 1345, the District of Columbia Hatch Act Reform Act of 2009. Introduced by Congresswoman Norton on May 5, 2009, H.R. 1345 eliminates provisions applying federal Hatch Act restrictions to employees of the District of Columbia, and includes District of Columbia employees within the portion of the Hatch Act applicable to local government employees.

History: Introduced on May 5, 2009; Committee approved on June 4, 2009; House passed on September 8, 2009.

H.R. 1387, Electronic Message Preservation Act. Introduced by Rep. Hodes on March 9, 2009, H.R. 1387 modernizes the requirements of the Federal Records Act and the Presidential Records Act to ensure the preservation of e-mails and other electronic messages.

History: H.R. 1387 was introduced on March 9, 2009; approved by the Committee as amended on March 10, 2009; House passed as amended on March 17, 2010.

H.R. 1507, the Whistleblower Protection Enhancement Act of 2009. Introduced by Rep. Van Hollen on March 12, 2009, the bill would strengthen protections for federal employees and contractors who disclose evidence of waste, fraud, abuse, or illegality. Similar legislation passed the House as part of H.R. 1, the American Recovery and Reinvestment Act of 2009, and again as S. 372, which the House amended.

History: Introduced on March 12, 2009; Similar legislation passed the House as part of H.R. 1 on January 28, 2009; Committee hearings held on May 14, 2009; House passed S. 372, with an amendment, on December 22, 2010.

H.R. 1849, the World War I Memorial and Centennial Act of 2009. Introduced by Rep. Cleaver on April 1, 2009, the bill would designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the “National World War I Memorial.” It would also establish the World War I Centennial Commission, tasked with planning, developing, and carrying out activities to commemorate the centennial of World War I.

History: Introduced April 1, 2009; Committee approved, as amended, on October 29, 2009; House passed November 5, 2009.

H.R. 1910, the Chief Technology Officer Act of 2009. Introduced by Rep. Connolly on April 2, 2009, the bill establishes in the Executive Office of the President an Office of the Federal Chief Technology Officer. The provisions of this bill were incorporated into H.R. 5136, the National Defense Authorization Act for Fiscal Year 2011.

History: Introduced on April 2, 2009; Committee approved as a part of H.R. 4900 on May 20, 2010; House passed as an amendment to H.R. 5136 on May 28, 2010.

H.R. 2182, the Enhanced Oversight of State and Local Economic Recovery Act. Introduced by Chairman Towns on April 29, 2009, the bill makes a number of changes to the American Recovery and Reinvestment Act of 2009 (P.L. 111–5) to assist state and local governments in their efforts to oversee the spending directed by that Act.

History: Introduced on April 29, 2009; Committee approved on May 6, 2009; House passed on May 19, 2009.

H.R. 2392, the Government Information Transparency Act. Introduced by Rep. Issa on May 13, 2009, the bill requires the Director of the Office of Management and Budget to adopt a single data standard for (1) collection, analysis, and dissemination of business and financial information for use by private sector entities that report to the federal government; and (2) use by agencies for federal financial information. In addition, the bill directs each agency head to ensure that information collected using the single data standard is accessible to the public. The provisions of this bill were incorporated into S. 303, the Federal Financial Assistance Management Improvement Act of 2009, at a business meeting on December 10, 2009.

History: Introduced on May 13, 2009; Committee approved, as amended, on June 4, 2009; House passed as a provision of S. 303 on December 14, 2009.

H.R. 2646, the Government Accountability Office Improvement Act of 2010. Introduced by Chairman Towns on June 2, 2009, the bill clarifies and strengthens the authority of the Government Ac-

countability Office (GAO) in several critical areas, including its access to records. The legislation increases the effectiveness of GAO by ensuring that GAO is not unnecessarily restricted in its efforts to secure necessary information in the course of performing its auditing and investigative functions for the Congress.

History: Introduced on June 2, 2009; Committee approved on June 4, 2009; House passed on January 13, 2010.

H.R. 2853, the All-American Flag Act. Introduced by Rep. Bruce L. Braley on June 12, 2009, the bill requires any flags of the United States acquired for use by the federal government to be 100% manufactured in the United States from articles, materials, or supplies 100% grown, produced, or manufactured in the United States, by Americans.

History: Introduced on June 12, 2009; Committee approved, as amended on July 28, 2010; House passed on September 30, 2010.

H.R. 3137, to amend title 39, United States Code, to provide clarification relating to the authority of the United States Postal Service to accept donations as an additional source of funding for commemorative plaques. Introduced by Rep. Issa on July 9, 2009, H.R. 3137 would permit the Postal Service to accept public donations to fund commemorative plaques.

History: Introduced on July 9, 2009; Committee approved on July 10, 2009; House passed on September 15, 2009.

H.R. 3243, a bill to provide that any hours worked by federal firefighters under a qualified trade-of-time arrangement shall be excluded for purposes of determinations relating to overtime pay. Introduced by Rep. Sarbanes on July 16, 2009, the bill will promote flexibility in work arrangements and scheduling for federal firefighters. It allows firefighters to trade shifts without triggering mandatory overtime payments from their employing agency.

History: Introduced on July 16, 2009; Committee approved on September 23, 2010; House passed on September 30, 2010.

H.R. 3264, the Federal Internship Improvement Act. Introduced by Rep. Connolly on July 20, 2009, the bill would strengthen and streamline federal government internship programs. The provisions of this bill were incorporated into H.R. 5136, National Defense Authorization Act for Fiscal Year 2011.

History: Introduced on July 20, 2010; House passed on May 28, 2010, as part of H.R. 5136.

H.R. 3913, the Major General David F. Wherley, Jr. District of Columbia National Guard Retention and College Access Act. Introduced by Congresswoman Norton on April 14, 2009, H.R. 3913 authorizes and directs the Mayor of the District of Columbia to establish a District of Columbia National Guard Educational Assistance Program to encourage the enlistment and retention of persons in the District of Columbia National Guard by providing financial assistance to enable members of the National Guard of the District of Columbia to attend undergraduate, vocational, or technical courses.

History: Introduced on October 22, 2009; Committee approved, as amended, on April 14, 2010; House passed, as amended, on June 28, 2010.

H.R. 4098, the Secure Federal File Sharing Act. Introduced by Rep. Towns on November 17, 2009, the bill requires the Office of Management and Budget (OMB) to issue guidance to prohibit the

use of certain peer-to-peer file sharing software on all federal computers, systems, and networks, including those of contractors working on the government's behalf. In addition, the bill requires OMB to establish a process by which agencies may seek a waiver to use certain peer-to-peer file sharing software that is necessary for legitimate government purposes.

History: Introduced on November 17, 2009; Committee approved on March 4, 2010; House passed, as amended, on March 24, 2010.

H.R. 4900, the Federal Information Security Amendments Act of 2010. Introduced by Rep. Watson on March 22, 2010, the bill makes a number of changes to the Federal Information Security Management Act, which was enacted as part of the E-Government Act of 2002. The bill establishes a National Office for Cyberspace, with a Director to be appointed by the President and subject to Senate confirmation. It also requires agencies to begin automated and continuous monitoring of their information security systems. The provisions of this bill were incorporated into H.R. 5136, the National Defense Authorization Act for Fiscal Year 2011.

History: Introduced on March 22, 2010; Committee approved, as amended, on May 20, 2010. House passed as an amendment to H.R. 5136 on May 28, 2010.

H.R. 5366, the Overseas Contractor Reform Act. Introduced by Rep. Peter Welch on May 20, 2010, the bill requires any person found to be in violation of the Foreign Corrupt Practices Act of 1977 (FCPA) to be proposed for debarment from any federal contract or grant within 30 days after final judgment of such violation. The bill also authorizes the head of a federal agency to waive this provision for a federal contract or grant and declares that it U.S. policy that no government contracts or grants should be awarded to individuals or companies who violate the FCPA.

History: Introduced on May 20, 2010; Committee approved on July 28, 2010; House passed on September 15, 2010.

S. 3794, the FOR VETS Act of 2010. Introduced by Sen. Patrick Leahy on September 16, 2010, the bill adds veterans groups to the list of organizations eligible to receive Federal surplus personal property through State agencies.

History: Introduced on September 16, 2010; Senate passed on September 29, 2010; House passed on December 14, 2010.

D. BILLS APPROVED BY THE COMMITTEE

H.R. 854, the Over-Classification Reduction Act. Introduced by Rep. Clay on February 4, 2009, H.R. 854 applies standards and practices to reduce improper classification and encourage information sharing. This bill requires the Archivist, in coordination with affected federal agencies, to promulgate regulations to prevent the over-classification of information. The bill also requires agency inspectors general to randomly audit classified information to ensure that these regulations, and other classification policies, are being followed.

History: Introduced on February 4, 2009; Committee approved on February 11, 2009.

H.R. 1881, the Transportation Security Workforce Enhancement Act of 2009. Introduced by Rep. Lowey on April 2, 2010, the legislation makes applicable to the Transportation Security Administration (TSA) the rules, benefits, workplace protections, and conditions

of employment codified in title 5 of the United States Code, including the right for employees to bargain collectively.

History: Introduced on April 2, 2009; Committee approved on September 10, 2009.

H.R. 2495, the Federal Real Property Disposal Enhancement Act of 2009. Introduced by Rep. Dennis Moore on May 19, 2009, this legislation would have allowed federal agencies to retain all of the proceeds from the sale of surplus real property. The agencies would be required to use these funds only for real property disposal activities. It would also have directed the General Services Administration to issue guidance on real property management and to make the initial payment for the costs associated with selling the surplus property. The federal agencies disposing of the property would have reimbursed the General Services Administration using the proceeds of the property sales.

History: Introduced May 19, 2009; Committee approved, as amended, on September 10, 2009. House passed as an amendment to S. 1510, but was not included in the version of S. 1510 that was signed into law.

H.R. 2517, the Domestic Partnership Benefits and Obligations Act of 2009. Introduced by Rep. Baldwin on May 20, 2009, the legislation would make available certain employment benefits to federal employees, former employees, and annuitants in same sex domestic partnerships. In order to receive benefits, the legislation would require a federal employee with a same sex domestic partner to certify that the relationship satisfies certain criteria. Once a domestic partnership is established, the employee and the domestic partner of the employee would be eligible to receive employment benefits, including health care insurance under the Federal Employee Health Benefits Plan.

History: Introduced on May 20, 2009; Committee approved on Nov. 18, 2009.

H.R. 4865, the Federal Employees and Uniformed Services Retirement Equity Act of 2010. Introduced by Rep. Lynch March 17, 2010, the bill would allow federal and postal employees, as well as members of the armed forces, to deposit unused annual leave pay into their Thrift Savings Plan (TSP) accounts, consistent with IRS rules for private sector retirement plans.

History: Introduced on March 17, 2010; Committee approved on April 14, 2010.

H.R. 5367, D.C. Courts and Public Defender Service Act. Introduced on May 24, 2010, by Congresswoman Norton, H.R. 5367 increases the administrative authorities of both the D.C. Courts and the Public Defender Services, promoting efficiency in the court system.

History: Introduced on May 24, 2010; Committee approved, as amended, on September 23, 2010.

H.R. 5368, United States Postal Service Postal Inspectors Equity Act. Introduced on May 24, 2010, by Rep. Lynch, H.R. 5368 makes availability pay applicable to criminal investigators working for the Postal Service.

History: Introduced on May 24, 2010; Committee approved, as amended, on September 23, 2010.

H.R. 5702, to amend the District of Columbia Home Rule Act to reduce the waiting period for holding special elections to fill vacan-

cies in the membership of the Council of the District of Columbia. Introduced on July 1, 2010, by Congresswoman Norton, H.R. 5702 shortens the time that a vacant seat will be left open in the D.C. Council from 114 days to 70 days.

History: Introduced on July 1, 2010; Committee approved on September 23, 2010.

H.R. 5815, Inspector General Authority Improvement Act of 2010. Introduced by Chairman Towns on July 22, 2010, the legislation would enhance the ability of Inspectors General to gather information in connection with their audit, evaluation, and investigation functions, so the Inspector General community is better-equipped to carry out its work on behalf of U.S. taxpayers.

History: Introduced on July 22, 2010; Committee approved on July 28, 2010.

E. RESOLUTIONS APPROVED BY THE COMMITTEE

All of the following measures were approved by the House:

H. Con. Res. 84, supporting the goals and objectives of a National Military Appreciation Month.

H. Con. Res. 127, recognizing the significance of National Caribbean-American Heritage Month.

H. Con. Res. 142, supporting National Men's Health Week.

H. Con. Res. 158, expressing support for the designation of an Early Detection Month for breast cancer and all forms of cancer.

H. Con. Res. 160, recognizing the contributions of the American Kennel Club.

H. Con. Res. 163, expressing support for designation of September 23, 2009, as "National Job Corps Day."

H. Con. Res. 186, supporting the goals and ideals of Sickle Cell Disease Awareness Month.

H. Con. Res. 226, supporting the observance of "Spirit of '45 Day."

H. Con. Res. 244, expressing support for designation of a National Day of Recognition for Long-Term Care Physicians.

H. Con. Res. 255, commemorating the 40th anniversary of Earth Day and honoring the founder of Earth Day, the late Senator Gaylord Nelson of Wisconsin.

H. Con. Res. 268, supporting the goals and ideals of National Women's Health Week, and for other purposes.

H. Con. Res. 288, supporting National Men's Health Week.

H.J. Res. 90, expressing support for designation of September 2010 as "Gospel Music Heritage Month" and honoring gospel music for its valuable and longstanding contributions to the culture of the United States.

H. Res. 16, supporting the goals and ideals of National Life Insurance Awareness Month.

H. Res. 18, honoring the life, achievements, and contributions of Paul Newman.

H. Res. 47, supporting the goals and ideals of Peace Officers Memorial Day.

H. Res. 49, honoring Karen Bass for becoming the first African-American woman elected Speaker of the California State Assembly.

H. Res. 70, congratulating Anthony Kevin "Tony" Dungy for his accomplishments as a coach, father, and exemplary member of his community.

H. Res. 83, recognizing the significance of Black History Month.

H. Res. 110, congratulating the National Football League champion Pittsburgh Steelers for winning Super Bowl XLIII and becoming the most successful franchise in NFL history with their record 6th Super Bowl title.

H. Res. 112, supporting the goals and ideals of American Heart Month and National Wear Red Day.

H. Res. 139, commemorating the life and legacy of President Abraham Lincoln on the bicentennial of his birth.

H. Res. 159, honoring the New Hampshire State Senate for becoming the 1st statewide legislative body with a majority of women in the United States.

H. Res. 178, expressing the need for enhanced public awareness of traumatic brain injury and support for the designation of a National Brain Injury Awareness Month.

H. Res. 183, expressing condolences to the families, friends, and loved ones of the victims of the crash of Continental Connection Flight 3407, and for other purposes.

H. Res. 209, commemorating the 80th anniversary of the Daughters of Penelope, a preeminent international women's association and affiliate organization of the American Hellenic Educational Progressive Association (AHEPA).

H. Res. 211, supporting the goals and ideals of National Women's History Month.

H. Res. 214, recognizing the efforts of the countless volunteers who helped the Commonwealth of Kentucky recover from the ice storm of January 2009.

H. Res. 223, honoring the life, achievements, and contributions of Paul Harvey, affectionately known for his signature line, "This is Paul Harvey . . . Good Day."

H. Res. 254, recognizing the contributions of Irish-Americans in the history and progress of the United States.

H. Res. 267, recognizing the cultural and historical significance of Nowruz, expressing appreciation to Iranian-Americans for their contributions to society, and wishing Iranian-Americans and the people of Iran a prosperous new year.

H. Res. 299, expressing the sense of the House of Representatives that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 4 through 10, 2009, and throughout the year.

H. Res. 320, honoring the life and achievements of Dr. John Hope Franklin.

H. Res. 340, expressing sympathy to the victims, families, and friends of the tragic act of violence at the American Civic Association in Binghamton, New York.

H. Res. 341, expressing heartfelt sympathy for the victims and families of the shootings in Geneva and Coffee Counties in Alabama, on March 10, 2009.

H. Res. 342, expressing support for designation of May 2, 2009, as "Vietnamese Refugees Day."

H. Res. 350, honoring the life and accomplishments of Harry Kalas for his invaluable contributions to the national past-time of baseball, the community, and the Nation.

H. Res. 356, expressing support for the designation of February 8, 2010, as “Boy Scouts of America Day,” in celebration of the Nation’s largest youth scouting organization’s 100th anniversary.

H. Res. 370, expressing the support of the House of Representatives for the goals and ideals of National Healthy Schools Day.

H. Res. 373, expressing support for designation of the month of September as “National Hydrocephalus Awareness Month.”

H. Res. 388, celebrating the role of mothers in the United States and supporting the goals and ideals of Mother’s Day.

H. Res. 403, expressing the sense of the House of Representatives that there should be established a National Teacher Day to honor and celebrate teachers in the United States.

H. Res. 420, celebrating the symbol of the United States flag and supporting the goals and ideals of Flag Day.

H. Res. 435, celebrating Asian/Pacific-American Heritage.

H. Res. 441, honoring the historical contributions of Catholic sisters in the United States.

H. Res. 469, honoring the life of Wayman Lawrence Tisdale and expressing the condolences of the House of Representatives on his passing.

H. Res. 476, celebrating the goals and ideals of “Black Music Month.”

H. Res. 483, supporting the goals and ideals of Veterans of Foreign Wars Day.

H. Res. 513, supporting the goals and purpose of Gold Star Mothers Day, which is observed on the last Sunday in September of each year in remembrance of the supreme sacrifice made by mothers who lose a son or daughter serving in the Armed Forces.

H. Res. 534, supporting the goals and ideals of “National Children and Families Day.”

H. Res. 546, recognizing the historical significance of Juneteenth Independence Day, and expressing the sense of the House of Representatives that history should be regarded as a means for understanding the past and more effectively facing the challenges of the future.

H. Res. 566, congratulating the 2008–2009 National Basketball Association Champions, the Los Angeles Lakers, on an outstanding and historic season.

H. Res. 612, expressing the profound sympathies of the House of Representatives for the victims of the tragic Metrorail accident on Monday, June 22, 2009, and for their families, friends, and associates.

H. Res. 679, supporting the goals and ideals of American Legion Day.

H. Res. 693, honoring the life and accomplishments of Jim Johnson and extending the condolences of the House of Representatives to his family on the occasion of his death.

H. Res. 708, congratulating Nancy Goodman Brinker for receiving the Presidential Medal of Freedom.

H. Res. 725, congratulating the Chula Vista Park View Little League team of Chula Vista, California, for winning the 2009 Little League World Series Championship.

H. Res. 727, expressing support for greater awareness of ovarian cancer.

H. Res. 734, a resolution expressing support for the goals and ideals of “Constitution Day.”

H. Res. 736, honoring President Lincoln’s Gettysburg Address on “Dedication Day,” November 19, 2009.

H. Res. 742, congratulating the Warner Robins Little League softball team from Warner Robins, Georgia, on winning the 2009 Little League Softball World Series.

H. Res. 743, honoring the life of Frank McCourt for his many contributions to American literature, education, and culture.

H. Res. 771, supporting the goals and ideals of a National Mesothelioma Awareness Day.

H. Res. 779, recognizing the importance of youth runaway prevention and at-risk youth programs.

H. Res. 780, recognizing the celebration of Filipino American History Month in October.

H. Res. 792, recognizing and honoring Robert Kelly Slater for winning the 2010 Rip Curl Pro Bell Championship and for his other outstanding achievements in the world of surfing.

H. Res. 798, conveying the best wishes of the House of Representatives to those celebrating Diwali.

H. Res. 855, expressing support for designation of May 1 as “Silver Star Service Banner Day.”

H. Res. 879, supporting the goals and ideals of American Education Week.

H. Res. 942, commending the Real Salt Lake soccer club for winning the 2009 Major League Soccer Cup.

H. Res. 957, honoring Jimmie Johnson, 2009 NASCAR Sprint Cup Champion.

H. Res. 1014, recognizing and supporting the goals and ideals of North American Inclusion Month.

H. Res. 1036, recognizing the contributions of Korean Americans to the United States.

H. Res. 1040, honoring the life and accomplishments of Donald Harrington for his contributions to literature in the United States.

H. Res. 1103, honoring the life and accomplishments of Sam Houston for his historical contributions to the expansion of the United States.

H. Res. 1121, congratulating Clinton County and the county seat of Wilmington, Ohio, on the occasion of their bicentennial anniversaries.

H. Res. 1172, recognizing the life and achievements of Will Keith Kellogg.

H. Res. 1174, supporting the goals and ideals of National Women’s History Month.

H. Res. 1187, expressing the sense of the House of Representatives with respect to raising public awareness of and helping to prevent attacks against Federal employees while engaged in or on account of the performance of official duties.

H. Res. 1189, commending Lance Mackey on winning a record 4th straight Iditarod Trail Sled Dog Race.

H. Res. 1256, congratulating Phil Mickelson on winning the 2010 Masters golf tournament.

H. Res. 1264, Expressing support for the designation of March as National Essential Tremor Awareness Month.

H. Res. 1294, expressing support for designation of the first Saturday in May as National Explosive Ordnance Disposal Day to honor those who are serving and have served in the noble and self-sacrificing profession of Explosive Ordnance Disposal in the United States Armed Forces.

H. Res. 1297, supporting the goals and ideals of American Craft Beer Week.

H. Res. 1316, celebrating Asian/Pacific American Heritage Month.

H. Res. 1328, honoring the life and legacy of William Earnest "Ernie" Harwell.

H. Res. 1330, recognizing June 8, 2010, as World Ocean Day.

H. Res. 1357, commending and congratulating the Hollywood Walk of Fame on the occasion of its 50th anniversary.

H. Res. 1369, recognizing the significance of National Caribbean-American Heritage Month.

H. Res. 1428, recognizing Brooklyn Botanic Garden on its 100th anniversary as the preeminent horticultural attraction in the borough of Brooklyn and its longstanding commitment to environmental stewardship and education for the City of New York.

H. Res. 1439, congratulating the Chicago Blackhawks on winning the 2010 Stanley Cup Championship.

H. Res. 1442, supporting the goals and ideals of United States Military History Month.

H. Res. 1475, congratulates the town of Tarboro, North Carolina, on the occasion of its 250th anniversary.

H. Res. 1479, supporting the United States Paralympics, honoring the Paralympic athletes, and for other purposes.

H. Res. 1494, congratulating the champion, finalists, and all other participants in the 83rd Annual Scripps National Spelling Bee.

H. Res. 1513, congratulating the Saratoga Race Course as it celebrates its 142nd season.

H. Res. 1527, congratulating the United States Men's National Soccer Team for its inspiring performance in the 2010 FIFA World Cup.

H. Res. 1529, commending Bob Sheppard for his long and respected career as the public-address announcer for the New York Yankees and the New York Giants.

H. Res. 1531, Expressing support for designation of 2011 as "World Veterinary Year" to bring attention to and show appreciation for the veterinary profession on its 250th anniversary.

H. Res. 1546, congratulating the Washington Stealth for winning the National Lacrosse League Championship.

H. Res. 1603, expressing support for designation of September 2010 as National Craniofacial Acceptance Month.

H. Res. 1617, supporting the goals and purpose of Gold Star Mothers Day, which is observed on the last Sunday in September of each year in remembrance of the supreme sacrifice made by mothers who lose a son or daughter serving in the Armed Forces.

H. Res. 1642, Recognizing the centennial of the City of Lilburn, Georgia and supporting the goals and ideals of a City of Lilburn Day.

H. Res. 1687, recognizing and supporting the goals and ideals of National Runaway Prevention Month.

H. Res. 1727, recognizing Rotary International for 105 years of service to the world and commending members on their dedication to the mission and principles of their organization.

H. Res. 1743, congratulating Gerda Weissmann Klein on being selected to receive the Presidential Medal of Freedom.

S. Con. Res. 72, recognizing the 45th anniversary of the White House Fellows Program.

F. POSTAL NAMING MEASURES

1. *Enacted*

H.R. 663, to designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the “Yvonne Ingram-Ephraim Post Office Building.”

H.R. 774, to designate the facility of the United States Postal Service located at 46-02 21st Street in Long Island City, New York, as the “Geraldine Ferraro Post Office Building.”

H.R. 918, to designate the facility of the United States Postal Service located at 300 East 3rd Street in Jamestown, New York, as the “Stan Lundine Post Office Building.”

H.R. 955, to designate the facility of the United States Postal Service located at 10355 Northeast Valley Road in Rollingbay, Washington, as the “John ‘Bud’ Hawk Post Office.”

H.R. 987, to designate the facility of the United States Postal Service located at 601 8th Street in Freedom, Pennsylvania, as the “John Scott Challis, Jr. Post Office.”

H.R. 1271, to designate the facility of the United States Postal Service located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, as the “Elijah Pat Larkins Post Office Building.”

H.R. 1284, to designate the facility of the United States Postal Service located at 103 West Main Street in McLain, Mississippi, as the “Major Ed W. Freeman Post Office.”

H.R. 1397, to designate the facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, as the “Caroline O’Day Post Office Building.”

H.R. 1516, to designate the facility of the United States Postal Service located at 37926 Church Street in Dade City, Florida, as the “Sergeant Marcus Mathes Post Office.”

H.R. 1595, to designate the facility of the United States Postal Service located at 3245 Latta Road in Rochester, New York, as the “Brian K. Schramm Post Office Building.”

H.R. 1713, to name the South Central Agricultural Research Laboratory of the Department of Agriculture in Lane, Oklahoma, and the facility of the United States Postal Service located at 310 North Perry Street in Bennington, Oklahoma, in honor of former Congressman Wesley “Wes” Watkins.

H.R. 1817, to designate the facility of the United States Postal Service located at 116 North West Street in Somerville, Tennessee, as the “John S. Wilder Post Office Building.”

H.R. 2004, to designate the facility of the United States Postal Service located at 4282 Beach Street in Akron, Michigan, as the “Akron Veterans Memorial Post Office.”

H.R. 2090, to designate the facility of the United States Postal Service located at 431 State Street in Ogdensburg, New York, as the “Frederic Remington Post Office Building.”

H.R. 2162, to designate the facility of the United States Postal Service located at 123 11th Avenue South in Nampa, Idaho, as the “Herbert A. Littleton Postal Station.”

H.R. 2215, to designate the facility of the United States Postal Service located at 140 Merriman Road in Garden City, Michigan, as the “John J. Shivnen Post Office Building.”

H.R. 2325, to designate the facility of the United States Postal Service located at 1300 Matamoros Street in Laredo, Texas, as the “Laredo Veterans Post Office.”

H.R. 2422, to designate the facility of the United States Postal Service located at 2300 Scenic Drive in Georgetown, Texas, as the “Kile G. West Post Office Building.”

H.R. 2470, to designate the facility of the United States Postal Service located at 19190 Cochran Boulevard FRNT in Port Charlotte, Florida, as the “Lieutenant Commander Roy H. Boehm Post Office Building.”

H.R. 2760, to designate the facility of the United States Postal Service located at 1615 North Wilcox Avenue in Los Angeles, California, as the “Johnny Grant Hollywood Post Office Building.”

H.R. 2877, to designate the facility of the United States Postal Service located at 76 Brookside Avenue in Chester, New York, as the “1st Lieutenant Louis Allen Post Office.”

H.R. 2972, to designate the facility of the United States Postal Service located at 115 West Edward Street in Erath, Louisiana, as the “Conrad DeRouen, Jr. Post Office.”

H.R. 3072, to designate the facility of the United States Postal Service located at 9810 Halls Ferry Road in St. Louis, Missouri, as the “Coach Jodie Bailey Post Office Building.”

H.R. 3119, to designate the facility of the United States Postal Service located at 867 Stockton Street in San Francisco, California, as the “Lim Poon Lee Post Office.”

H.R. 3250, to designate the facility of the United States Postal Service located at 1210 West Main Street in Riverhead, New York, as the “Private First Class Garfield M. Langhorn Post Office Building.”

H.R. 3319, to designate the facility of the United States Postal Service located at 440 South Gulling Street in Portola, California, as the “Army Specialist Jeremiah Paul McCleery Post Office Building.”

H.R. 3386, to designate the facility of the United States Postal Service located at 1165 2nd Avenue in Des Moines, Iowa, as the “Iraq and Afghanistan Veterans Memorial Post Office.”

H.R. 3539, to designate the facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, as the “Patricia D. McGinty-Juhl Post Office Building.”

H.R. 3547, to designate the facility of the United States Postal Service located at 936 South 250 East in Provo, Utah, as the “Rex E. Lee Post Office Building.”

H.R. 3634, to designate the facility of the United States Postal Service located at 109 Main Street in Swifton, Arkansas, as the “George Kell Post Office.”

H.R. 3667, to designate the facility of the United States Postal Service located at 16555 Springs Street in White Springs, Florida, as the “Clyde L. Hillhouse Post Office Building.”

H.R. 3767, to designate the facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, as the “W. Hazen Hillyard Post Office Building.”

H.R. 3788, to designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the “Corporal Joseph A. Tomci Post Office Building.”

H.R. 3892, to designate the facility of the United States Postal Service located at 101 West Highway 64 Bypass in Roper, North Carolina, as the “E.V. Wilkins Post Office.”

H.R. 3951, to designate the facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the “Roy Rondeno, Sr. Post Office Building.”

H.R. 4017, to designate the facility of the United States Postal Service located at 43 Maple Avenue in Shrewsbury, Massachusetts, as the “Ann Marie Blute Post Office.”

H.R. 4095, to designate the facility of the United States Postal Service located at 9727 Antioch Road in Overland Park, Kansas, as the “Congresswoman Jan Meyers Post Office Building.”

H.R. 4139, to designate the facility of the United States Postal Service located at 7464 Highway 503 in Hickory, Mississippi, as the “Sergeant Matthew L. Ingram Post Office.”

H.R. 4214, to designate the facility of the United States Postal Service located at 45300 Portola Avenue in Palm Desert, California, as the “Roy Wilson Post Office.”

H.R. 4238, to designate the facility of the United States Postal Service located at 930 39th Avenue in Greeley, Colorado, as the “W.D. Farr Post Office Building.”

H.R. 4425, to designate the facility of the United States Postal Service located at 2–116th Street in North Troy, New York, as the “Martin G. ‘Marty’ Mahar Post Office.”

H.R. 4543, to designate the facility of the United States Postal Service located at 4285 Payne Avenue in San Jose, California, as the “Anthony J. Cortese Post Office Building.”

H.R. 4547, to designate the facility of the United States Postal Service located at 119 Station Road in Cheyney, Pennsylvania, as the “Captain Luther H. Smith, U.S. Army Air Forces Post Office.”

H.R. 4628, to designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the “Sergeant Christopher R. Hrbek Post Office Building.”

H.R. 4840, an act to designate the facility of the United States Postal Service located at 1981 Cleveland Avenue in Columbus, Ohio, as the “Clarence D. Lumpkin Post Office.”

H.R. 4861, to designate the facility of the United States Postal Service located at 1343 West Irving Park Road in Chicago, Illinois, as the “Steve Goodman Post Office Building.”

H.R. 5051, to designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the “Zachary Smith Post Office Building.”

H.R. 5099, to designate the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the “Michael C. Rothberg Post Office.”

H.R. 5278, to designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the “President Ronald W. Reagan Post Office Building.”

H.R. 5341, to designate the facility of the United States Postal Service located at 100 Orndorf Drive in Brighton, Michigan, as the “Joyce Rogers Post Office Building.”

H.R. 5390, to designate the facility of the United States Postal Service located at 13301 Smith Road in Cleveland, Ohio, as the “David John Donafee Post Office Building.”

H.R. 5395, to designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the “Paula Hawkins Post Office Building.”

H.R. 5450, to designate the facility of the United States Postal Service located at 3894 Crenshaw Boulevard in Los Angeles, California, as the “Tom Bradley Post Office Building.”

H.R. 6118, to designate the facility of the United States Postal Service located at 2 Massachusetts Avenue, NE, in Washington, D.C., as the “Dorothy I. Height Post Office.”

S. 748, a bill to redesignate the facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, as the “Cesar E. Chavez Post Office.”

S. 1211, a bill to designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the “Jack F. Kemp Post Office Building.”

S. 3567, a bill to designate the facility of the United States Postal Service located at 100 Broadway in Lynbrook, New York, as the “Navy Corpsman Jeffrey L. Wiener Post Office Building.”

2. Approved by the House

H.R. 1216, to designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the “Lance Corporal Matthew P. Pathenos Post Office Building.”

H.R. 1217, to designate the facility of the United States Postal Service located at 15455 Manchester Road in Ballwin, Missouri, as the “Specialist Peter J. Navarro Post Office Building.”

H.R. 1218, to designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the “Lance Corporal Drew W. Weaver Post Office Building.”

H.R. 2173, to designate the facility of the United States Postal Service located at 1009 Crystal Road in Island Falls, Maine, as the “Carl B. Smith Post Office.”

H.R. 2174, to designate the facility of the United States Postal Service located at 18 Main Street in Howland, Maine, as the “Clyde Hichborn Post Office.”

H.R. 2971, to designate the facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the “Dr. Martin Luther King, Jr. Post Office.”

H.R. 4495, to designate the facility of the United States Postal Service located at 100 North Taylor Lane in Patagonia, Arizona, as the “Jim Kolbe Post Office.”

H.R. 4602, to designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the “Emil Bolas Post Office.”

H.R. 4624, to designate the facility of the United States Postal Service located at 125 Kerr Avenue in Rome City, Indiana, as the “SPC Nicholas Scott Hartge Post Office.”

H.R. 5133, to designate the facility of the United States Postal Service located at 331 1st Street in Carlstadt, New Jersey, as the “Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building.”

H.R. 5446, to designate the facility of the United States Postal Service located at 600 Florida Avenue in Cocoa, Florida, as the “Harry T. and Harriette Moore Post Office.”

H.R. 5605, to designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the “George C. Marshall Post Office.”

H.R. 5606, to designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the “James M. ‘Jimmy’ Stewart Post Office Building.”

H.R. 5655, to designate the Little River Branch facility of the United States Postal Service located at 140 NE 84th Street in Miami, Florida, as the “Jesse J. McCrary, Jr. Post Office.”

H.R. 5758, to designate the facility of the United States Postal Service located at 2 Government Center in Fall River, Massachusetts, as the “Sergeant Robert Barrett Post Office Building.”

H.R. 5873, to designate the facility of the United States Postal Service located at 218 North Milwaukee Street in Waterford, Wisconsin, as the “Captain Rhett W. Schiller Post Office.”

H.R. 5877, to designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the “Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building.”

H.R. 6205, to designate the facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, as the “Private Isaac T. Cortes Post Office.”

H.R. 6237, to designate the facility of the United States Postal Service located at 1351 2nd Street in Napa, California, as the “Tom Kongsgaard Post Office Building.”

H.R. 6387, to designate the facility of the United States Postal Service located at 337 West Clark Street in Eureka, California, as the “Sam Sacco Post Office Building.”

H.R. 6392, to designate the facility of the United States Postal Service located at 5003 Westfields Boulevard in Centreville, Virginia, as the “Colonel George Juskalian Post Office Building.”

H.R. 6400, to designate the facility of the United States Postal Service located at 111 North 6th Street in St. Louis, Missouri, as the “Earl Wilson, Jr. Post Office.”

3. Approved by Committee

H.R. 5720, to designate the facility of the United States Postal Service located at 1227 Lunalilo Street, Honolulu, Hawaii, as the “Cecil L. Heftel Post Office Building.”

H.R. 5721, to designate the facility of the United States Postal Service located at 335 Merchant Street, Honolulu, Hawaii, as the “Frank F. Fasi Post Office Building.”

H.R. 6014, to designate the facility of the United States Postal Service located at 212 Main Street in Hartman, Arkansas, as the “M.R. ‘Bucky’ Walters Post Office.”

VI. CHRONOLOGY OF FULL COMMITTEE PROCEEDINGS

Business meeting to approve the committee's rules of procedure, establish subcommittee jurisdictions, and approve member assignments (February 11, 2009).

Hearing on "How Convicts and Con Artists Receive New Federal Contracts" (February 26, 2009). Witnesses: Gregory D. Kutz, Managing Director, Government Accountability Office; James A. Williams, Commissioner of Federal Acquisition Service, United States General Services Administration; David A. Drabkin, Acting Chief Acquisition Officer, United States General Services Administration; Edward M. Harrington, Deputy Assistant Secretary for Procurement, United States Army; Captain Michael F. Jaggard, Chief of Staff for the Deputy Assistant Secretary of the Navy for Acquisition and Logistics Management, United States Navy; Frederic Levy, Partner, McKenna Long & Aldridge, LLP; Scott Arney, General Counsel, Project on Government Oversight.

Business meeting to mark up H.R. 1323, The Reducing Information Control Designations Act, H.R. 1320, The Federal Advisory Committee Act Amendments of 2009, H.R. 1387, The Electronic Message Preservation Act, H. Res. 166, Recognizing the 450th birthday of the settlement of Pensacola, Florida, and encouraging the people of the United States to observe the 450th birthday of the settlement of Pensacola, Florida, and remember how the rich history of Pensacola, Florida, has likewise contributed to the rich history of the United States, and for other purposes, H. Res. 178, Expressing the need for public awareness of traumatic brain injury and support for designation of a National Brain Injury Awareness Month, H. Res. 22, Expressing the sense of the House of Representatives that the Senate should ratify the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), H.R. 918, To designate the facility of the United States Postal Service located at 300 East 3rd Street in Jamestown, New York, as the "Stan Lundine Post Office Building", H.R. 955, To designate the facility of the United States Postal Service located at 10355 Northeast Valley Road in Rollingbay, Washington, as the "John 'Bud' Hawk Post Office", H.R. 987, To designate the facility of the United States Postal Service located at 601 8th Street in Freedom, Pennsylvania, as the "John Scott Challis, Jr. Post Office", H.R. 1216, To designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the "Lance Corporal Matthew P. Pathenos Post Office Building", H.R. 1217, To designate the facility of the United States Postal Service located at 15455 Manchester Road in Ballwin, Missouri, as the "Specialist Peter J. Navarro Post Office Building", H.R. 1218, To designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the "Lance Corporal Drew W. Weaver Post Office Building", H.R. 1284, To designate the facility of the United States Postal Service located at 103 West Main Street in McLain, Mississippi, as the "Major Ed W. Freeman Post Office" (March 10, 2009).

Business meeting to mark up H.R. 1256, The Family Smoking Prevention and Tobacco Control Act, H. Res. 223, Honoring the life, achievements, and contributions of Paul Harvey, affectionately known for his signature line, "This is Paul Harvey. . . . Good Day",

H.R. 774, To designate the facility of the United States Postal Service located at 46-02 21st St. in Long Island City, New York the “Geraldine Ferraro Post Office Building”, H.R. 1397, To designate the facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, as the “Caroline O’Day Post Office Building” (March 18, 2009).

Hearing on “Preventing Stimulus Waste and Fraud: Who Are The Watchdogs?” (March 19, 2009). Witnesses: Earl E. Devaney, Chairman, Recovery Act Accountability and Transparency Board; William G. Holland, Auditor General of Illinois; David P. Gagan, Chief Procurement Officer for Washington, DC, National Association of State Procurement Officials; Jerome Heer, Director of Audits for the County of Milwaukee; Jerry Brito, Senior Research Fellow, Mercatus Center at George Mason University.

Hearing on “The Collapse and Federal Rescue of AIG and What it Means for the U.S. Economy” (April 2, 2009). Witnesses: Maurice “Hank” Greenberg, Former CEO, American International Group, Inc.

Hearing on “AIG: Where is the Taxpayer Money Going?” (May 13, 2009). Witnesses: Edward M. Liddy, Chairman and CEO, American International Group, Inc.; Jill M. Considine, Trustee, AIG Credit Facility Trust; Chester B. Feldberg, Trustee, AIG Credit Facility Trust; Douglas L. Foshee, Trustee, AIG Credit Facility Trust; Professor J.W. Verret, George Mason University School of Law.

Hearing on “Protecting the Public From Waste, Fraud, and Abuse: H.R. 1507, The Whistleblower Protection Enhancement Act of 2009” (May 14, 2009). Witnesses: Rajesh De, Deputy Assistant Attorney General, Office of Legal Policy, Department of Justice; Louis Fisher, Special Assistant to the Law Librarian of Congress, Law Library of Congress; Franz Gayl, United States Marine Corps whistleblower; Bunnatine Greenhouse, Army Corps of Engineers whistleblower; Teresa Chambers, United States Park Police whistleblower; Thomas Devine, Legal Director, Government Accountability Project; Michael German, Policy Counsel, American Civil Liberties Union; Angela Canterbury, Director of Advocacy, Public Citizen’s Congress Watch; David Colapinto, General Counsel, National Whistleblowers Center.

Hearing on “State and Local Pandemic Preparedness” (May 20, 2009). Witnesses: Guthrie Birkhead, Deputy Commissioner for Public Health, New York State Health Department; Terry Allan, Health Commissioner, County of Cuyahoga, Ohio; Dr. Rex Archer, Director of Health, Kansas City (MO) Health Department; Dr. Paul Jarris, Executive Director, Association of State and Territorial Health Officials; Dr. Dan Sosin, Director of the Coordinating Office for Terrorism Preparedness and Emergency Response, Center for Disease Control and Prevention.

Hearing on “Bank of America and Merrill Lynch: How Did a Private Deal Turn Into a Federal Bailout?” (June 11, 2009). Witnesses: Kenneth D. Lewis, President and CEO, Bank of America, Inc.

Hearing on “The Future of the V-22 Osprey: Costs, Capabilities, and Challenges” (June 23, 2009). Witnesses: Mike Sullivan, Director of Acquisition and Sourcing Management, Government Accountability Office; Dakota L. Wood, Senior Fellow, Center for Strategic and Budgetary Assessments; Lieutenant General George

Trautman, Deputy Commandant for Aviation, United States Marine Corps; Colonel Karsten S. Heckl; Dr. A.R. Rivolo, Retired United States Air Force Pilot.

Hearing on “Afghanistan and Pakistan: Oversight of a New Interagency Strategy” (June 18, 2009). Witnesses: Ambassador Richard Holbrooke, United States Special Representative for Afghanistan and Pakistan; General Wallace “Chip” Gregson, Assistant Secretary of Defense for Asian & Pacific Security Affairs.

Hearing on “Bank of America and Merrill Lynch: How Did a Private Deal Turn Into a Federal Bailout? Part II” (June 25, 2009). Witnesses: Ben S. Bernanke, Chairman of the Board of Governors, Federal Reserve System.

Hearing on “The Rise of the Mexican Drug Cartels and National Security” (July 9, 2009). Witnesses: Alan Bersin, Assistant Secretary for the Office of International Affairs and Special Representative for Border Affairs, Department of Homeland Security; R. Gil Kerlikowske, Director, Office of National Drug Control Policy; Todd Owen, Acting Deputy Assistant Commissioner for the Office of Field Operations, United States Customs and Border Protection, Department of Homeland Security; Kumar C. Kibble, Deputy Director of the Office of Investigations, United States Immigration and Customs Enforcement, Department of Homeland Security; J. Robert McBrien, Associate Director for Investigations and Enforcement, Office of Foreign Assets Control, Department of the Treasury.

Hearing on “Bank of America and Merrill Lynch: How Did a Private Deal Turn Into a Federal Bailout? Part III” (July 16, 2009). Witnesses: Henry M. Paulson, Former Secretary of the Treasury.

Hearing on “Following the Money: Report of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP)” (July 21, 2009). Witnesses: Neil M. Barofsky, Special Inspector General for the Trouble Asset Relief Program.

Hearing on “Inadvertent File Sharing Over Peer-to-Peer Networks: How it Endangers Citizens and Jeopardizes National Security” (July 29, 2009). Witnesses: Mark Gorton, Chairman, The Lime Group; Robert Boback, CEO, Tiversa, Inc.; Tom Sydnor, Senior Fellow and Director, Center for the Study of Digital Property, The Progress and Freedom Foundation.

Hearing on “The Silent Depression: How are Minorities Faring in the Economic Downturn” (September 23, 2009). Witnesses: Raymond Skinner, Secretary, Maryland Department of Housing and Community Development; James Carr, Chief Operating Officer, National Community Reinvestment Coalition; Dr. Christian Weller, Senior Fellow, Center for American Progress Action Fund; Marc Monial, President and CEO, National Urban League; Janet Murgua, President and CEO, Council of La Raza; Lisa Hasegawa, Executive Director, National Coalition for Asian and Pacific American Community Development; Jacqueline Johnson-Pata, Executive Director, National Congress of American Indians; Harry Alford, President and CEO, National Black Chamber of Commerce.

Hearing on “The Administration’s Flu Vaccine Program: Health, Safety, and Distribution.” (September 29, 2009). Witnesses: Dr. Thomas Frieden, Director, Center for Disease Control and Prevention; Dr. Anthony Fauci, Director, National Institute of Allergy and

Infectious Diseases; Dr. Jesse Goldman, Deputy Commissioner, Food and Drug Administration.

Hearing on “Credit Ratings Agencies and the Next Financial Crisis” (September 30, 2009). Witnesses: Ilya Eric Kolchinsky, Former Managing Director, Moody’s Investors Service; Scott McCleskey, Former Senior Vice President for Compliance, Moody’s Corporation; Richard Cantor, Chief Risk Officer, Moody’s Corporation; Senator Alfonse M. D’Amato, Former Chairman, Senate Committee on Banking; Floyd Abrams, Partner, Cahill Gordon & Reindel, LLP; Eric Baggesen, Senior Investment Officer, California Public Employees Retirement System (CalPERS); Professor Lawrence J. White, Leonard N. Stern School of Business, New York University.

Hearing on “AIG Bonuses: Report of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP)” (October 14, 2009). Witnesses: Neil Barofsky, Special Inspector General, Troubled Asset Relief Program.

Hearing on “Executive Compensation: How Much is Too Much?” (October 28, 2009). Witnesses: Kenneth Feinberg, Special Master for TARP Executive Compensation, United States Department of Treasury; Professor William K. Black, Associate Professor of Economics and Law, University of Missouri—Kansas City (UMKC); Professor Russell Roberts, Professor of Economics, George Mason University.

Hearing on “Bank of American and Merrill Lynch: How Did a Private Deal Turn into a Federal Bailout? Part IV” (November 17, 2009). Witnesses: Brian Moynihan, President of Consumer and Small Business Banking, Bank of America; Timothy J. Mayopoulos, Former General Counsel, Bank of America; Charles “Chad” Gifford, Member, Board of Directors, Bank of America; Thomas J. May, Member, Board of Directors, Bank of America.

Hearing on “Tracking the Money: How Recovery Act Recipients Account for Their Use of Stimulus Dollars” (November 19, 2009). Witnesses: Earl Devaney, Chairman, Recovery Accountability and Transparency Board; Gene L. Dodaro, Acting Comptroller General, Government Accountability Office; Anthony Wilder Miller, Deputy Secretary, United States Department of Education; John D. Porcari, Deputy Secretary, United States Department of Transportation; Dr. John S. Irons, Research and Policy Director, Economic Policy Institute; Dick Arme, Chairman, Freedom Works.

Hearing on “Will Arbitron’s Personal People Meter Silence Minority Owned Radio Stations?” (December 2, 2009). Witnesses: Michael Skarzynski, President and Chief Executive Officer, Arbitron, Inc.; Ceril Shagrin, Executive Vice President, Corporate Research Division, Univision Communications, Inc.; David Honig, President and Executive Director, Minority Media and Telecom Council; George Ivie, Chief Executive Officer, Media Rating Council; Charles Warfield, President and Chief Operating Officer, ICBC Holdings, Inc.; Jessica Pantanini, Chief Operating Officer, Bromley Communications, Inc.; Frank Flores, Chief Revenue Officer and New York Market Manager, Spanish Broadcasting System; Alfred C. Liggins, III, Chief Executive Officer and President, Radio One, Inc.

Hearing on “Post-Katrina Recovery: Restoring Health Care in the New Orleans Region” (December 3, 2009). Witnesses: Cynthia A. Bascetta, Director, Health Care United States Government Ac-

countability Office; Dr. Diane Rowland, Executive Vice President, The Henry J. Kaiser Family Foundation; Dr. Donald T. Erwin, President and Chief Executive Officer, Nephrology, Saint Thomas Community Health Center; Michael G. Griffin, President and Chief Executive Officer, Daughters of Charity Services of New Orleans; Alice Craft-Kerney, Executive Director, Lower 9th Ward Health Clinic; Dr. Karen B. Desalvo, Vice Dean for Community Affairs and Health Policy, Covenant House Clinic, Tulane University School of Medicine; Dr. Roxanne A. Townsend, Assistant Vice President, Health Systems, University Hospital, Louisiana State University System Dr. Marcia K. Brand, Deputy Administrator, Health Resources and Services Administration, United States Department of Health and Human Services; Alan Levine, Secretary, Louisiana Department of Health and Hospitals; Dr. Joia Crear-Perry, Director of Clinical Services, City of New Orleans Health Department; Clayton Williams, Director, Louisiana Public Health Institute.

Hearing on “Bank of America and Merrill Lynch: How Did a Private Deal Turn into a Federal Bailout? Part V?” (December 11, 2009). Witnesses: Sheila C. Bair, Chairman, Federal Deposit Insurance Corporation; Robert Khuzami, Director of the Division of Enforcement, Securities and Exchange Commission.

Hearing on “The Federal Bailout of AIG” (January 27, 2010). Witnesses: Timothy F. Geithner, Secretary, United States Treasury Department; Henry “Hank” Paulson, Former Secretary, United States Department of Treasury; Neil Barofsky, Special Inspector General, Troubled Asset Relief Program; Thomas C. Baxter, Executive Vice President and General Counsel, Federal Reserve Bank of New York; Elias Habayeb, Former Senior Vice President and Chief Financial Officer—Financial Services Division, American International Group, Inc.; Stephan Friedman, Former Chairman, Federal Reserve Bank of New York.

Hearing on “Toyota Gas Pedals: Is the Public at Risk?” (February 24, 2010). Witnesses: Raymond H. LaHood, Secretary, U.S. Department of Transportation; Akio Toyoda, President and CEO, Toyota Motor Corporation; Yoshimi Inaba, President and CEO, Toyota Motor North America, Inc.; Joan Claybrook, President Emeritus of Public Citizen and Former Administrator of the National Highway Traffic Safety Administration; Clarence M. Ditlow, Executive Director, Center for Auto Safety; Mrs. Fe Lastrella, Lost Family Members in a Car Accident Involving a Toyota Vehicle; Kevin Haggerty, Experienced Sudden Unintended Acceleration in a Toyota Vehicle.

Hearing on “Prostate Cancer: New Questions about Screening and Treatment” (March 4, 2010). Witnesses: Louis Gosset, Jr., Award winning actor and prostate cancer victim; Betty Gallo, Co-Founder, Women Against Prostate Cancer, Widow of Rep. Dean A. Gallo; Thomas Farrington, President and Founder, Prostate Health Education Network, Inc.; Theodore L. DeWeese, M.D., Professor of Urology, Professor of Oncology, Chairman, Radiation Oncologist-in-Chief, Sidney Kimmel Comprehensive Cancer Center, Johns Hopkins University; Otis W. Brawley, M.D., Chief Medical Officer, American Cancer Society; James L. Mohler, M.D., Associate Director and Senior Vice President for Translation Research, Chair, Department of Urologic Oncology, Department of Urology at the Roswell Park Cancer Institute; Dr. Steven G. Kaminsky, Ph.D., Vice President for Research and Director of Research Administra-

tion, Uniformed Services University of Health Sciences Center for Prostate Disease Research; Faina Shtern, M.D., President and Chief Executive Officer, AdMeTech Foundation; William L. Dahut, M.D., Senior Investigator, National Cancer Institute, Medical Oncology Branch and Affiliates; Carolyn J.M. Best, Ph.D., Program Manager, Prostate Cancer Research Center, Department of Defense, U.S. Army Medical Research and Material Command, Congressionally Directed Medical Research Program.

Hearing on "Tracking the Money: Assessing the Recovery Act's Impact on the State of California" (March 5, 2010). Witnesses: Antonio R. Villaraigosa, Mayor of the City of Los Angeles; Patrick J. Morris, Mayor of the City of San Bernardino; Chuck R. Reed, Mayor of the City of San Jose; Herb K. Schultz Director, California Recovery Task Force, Office of the Governor; Laura N. Chick, Recovery Act Inspector General, State of California; Linda Calbom, Western Regional Director, U.S. Government Accountability Office; Elaine M. Howle, California State Auditor; Gavin Payne, Chief Deputy Superintendent of Public Instruction, Office of the State Superintendent of Public Instruction.

Hearing on "Rewarding Bad Actors: Why do Poor Performing Contractors Continue to Get Government Business?" (March 18, 2010). Witnesses: Calvin L. Scovell, III, Inspector General, United States Department of Transportation; Richard L. Skinner, Inspector General, United States Department of Homeland Security; Donald A. Gambatesa, Inspector General, U.S. Agency for International Development; Gregory H. Woods, Deputy General Counsel, United States Department of Transportation; Elaine D. Duke, Under Secretary for Management, United States Department of Homeland Security; Drew W. Luten, III, Acting Assistant Administrator for Management, United States Agency for International Development.

Business meeting to consider H. Con. Res. 244, to express support for the goals and ideals of the National Day of Recognition for Long-Term Care Physicians, H. Res. 1040, to honor the life and accomplishments of Donald Harrington for his contributions to literature in the United States, H. Res. 1174, to support the goals and ideals of National Women's History Month, H.R. 4840, to designate the facility of the United States Postal Service located at 1979 Cleveland Avenue in Columbus, Ohio, as the "Clarence D. Lumpkin Post Office" (March 18, 2010).

Hearing on "Foreclosure Prevention: Is the Home Affordable Modification Program Preserving Homeownership?" (March 25, 2010). Witnesses: Neil Barofsky, Special Inspector General, Troubled Asset Relief Program; Gene Dodaro, Acting Comptroller General, Government Accountability Office; John Taylor, President and CEO, National Community Reinvestment Coalition; Mark Calabria, Director of Financial Regulation Studies, Cato Institute; Herbert M. Allison, Jr., Assistant Secretary for Financial Stability, United States Department of Treasury.

Business meeting to consider H.R. 1722, the "Telework Improvements Act of 2009," H.R. 4865, the "Federal Employees and Uniformed Services Retirement Equity Act of 2010," H.R. 3913, the "Major General David F. Wherley, Jr. District of Columbia National Guard Retention and College Access Act," S. 806, the "Federal Executive Board Authorization Act of 2009," S. 1510, the "United States Secret Service Uniformed Division Modernization

Act of 2009,” H.Con.Res 255, to commemorate the 40th anniversary of Earth Day and honors the founder of Earth Day, the late Senator Gaylord Nelson of Wisconsin, H.Res. 213, to urge the establishment and observation of a legal public holiday in honor of Cesar E. Chavez, H.Res. 855, to express support for designation of May 1 as “Silver Star Service Banner Day,” H.Res. 1103, to honor the life and accomplishments of Sam Houston for his historical contributions to the expansion of the United States, H.Res. 1187, express the sense of the House of Representatives with respect to raising public awareness of and helping to prevent attacks against Federal employees while engages in or on account of the performance of official duties, H.Res. 1189, to commend Lance Mackey on winning a record 4th straight Iditarod Trail Sled Dog Race, H.R. 4861, to designate the facility of the United States Postal Service located at 1343 West Irving Park Road in Chicago, Illinois, as the “Steve Goodman Post Office Building,” H.R. 4543, to designate the facility of the United States Postal Service located at 4285 Payne Avenue in San Jose, California, the “Anthony J. Cortese Post Office Building,” H.R. 4909, to designate the facility of the United States Postal Service located at 2168 7th Avenue in Anoka, Minnesota as the “Richard K. Sorenson Post Office Building” (April 14, 2010).

Hearing on “Continuing to Deliver: An Examination of the Postal Service’s Current Financial Crisis and its Future Viability” (April 15, 2010). Witnesses: John E. Potter, Postmaster General and CEO, United States Postal Service; Phillip Herr, Director, Physical Infrastructure Issues, United States Government Accountability Office; Ruth Goldway, Chairman, Postal Regulatory Commission; David Williams, Inspector General, Office of Inspector General, United States Postal Service; John O’Brien, Senior Advisor to the Director, U.S. Office of Personnel Management; Kevin Kosar, Analyst, Congressional Research Service.

Hearing on “The Washington Metro System: Safety, Service, and Stability” (April 21, 2010). Witnesses: Peter M. Rogoff, Administrator, Federal Transit Administration; Richard Sarles, Interim General Manager, Washington Metropolitan Area Transit Authority; Peter Benjamin, Chairman, Board of Directors, Washington Metropolitan Area Transit Authority; Matt Bassett, Chairman, Tri-State Oversight Committee; Jackie Jeter, President, Amalgamated Transit Union Local 689; David Alpert, Vice-Chair, Metro Rider Advisory Council.

Business meeting to consider H. Con. Res. 268, to support the goals and ideals of National Women’s Health Week, H. Res. 403, to support the goals and ideals of National Teacher Day, H. Res. 792, to honor Robert Kelly Slater, the 2010 Rip Curl Pro Bell Champion, H. Res. 879, to support the goals and ideals of American Education Week, H. Res. 1187, to express the sense of the House of Representatives with respect to raising public awareness of and helping to prevent attacks against federal employees while engaged in or on account of the performance of official duties, H. Res. 1256, to congratulate Phil Mickelson on winning the 2010 Masters golf tournament, H. Res. 1297, to support the goals and ideals of American Craft Beer Week, H. Res. 1316, to celebrate Asian/Pacific American Heritage Month, H.R. 5051, to designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the “Zachary Smith Post Office Building,”

H.R. 5099, to designate the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the “Michael C. Rothberg Post Office,” H.R. 5133, to designate the facility of the United States Postal Service located at 331 1st Street in Carlstadt, New Jersey, as the “Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building,” H.Res. 1328, to honor the life and accomplishments of William “Earnest “Ernie” Harwell, H.Res. 1294, to support the designation of the first Saturday in May as National Explosive Ordnance Disposal Day to honor those who are serving and have served in the noble and self-sacrificing profession of Explosive Ordnance Disposal in the United States Armed Services (May 6, 2010).

Hearing on “H.R. 4869, The Restroom Gender Parity in Federal Buildings Act” (May 12, 2010). Witnesses: Rep. Yvette Clarke, Member of Congress; Rep. Steve Cohen, Member of Congress; Commissioner Robert Peck, Public Building Service, U.S. General Services Administration; Dr. Kathryn H. Anthony, Professor, School of Architecture, University of Illinois at Urbana-Champaign; Hon. Sharon Pratt, Former Mayor, Washington, D.C.

Hearing on “Running Out of Time: Telecommunications Transition Delays Wasting Millions of Federal Dollars” (May 20, 2010). Witnesses: Stephen Kempf, Acting Commissioner, Federal Acquisition Service, U.S. General Services Administration; Sanjeev Bhagowalia, Chief Information Officer, Office of the Secretary, Department of Interior; Don Herring, Senior Vice President, AT&T Government Solutions; Diana L. Gowen, Senior Vice President and General Manager, Qwest Government Services; Edward C. Morche, Senior Vice President and General Manager, Level 3 Federal; Susan Zeleniak, Group President, Verizon Federal, Inc.; Bill White, Vice President, Federal Sales, Spring Nextel Corporation.

Business meeting to consider H.R. 4900, the Federal Information Security Amendments Act of 2020, H.R. 2142, the Government Efficiency, Effectiveness, and Performance Improvement Act of 2009, H. Res. 1121, to congratulate Clinton County and the county seat of Wilmington, Ohio, on the occasion of their bicentennial anniversaries, H. Res. 1172, to recognize the life and achievements of Will Keith Kellogg, H. Res. 1330, to recognize June 8, 2010, as World Ocean Day, H. Res. 1357, to commend and congratulate the Hollywood Walk of Fame on the occasion of its 50th anniversary, H.R. 5278, to designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the “President Ronald W. Reagan Post Office Building” (May 20, 2010).

Hearing on “Johnson and Johnson’s Recall of Children’s Tylenol and Other Pediatric Medicines” (May 26, 2010). Witnesses: Joshua M. Sharfstein, Principal Deputy Commissioner, U.S. Food and Drug Administration; Deborah M. Autor, Director of the Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration; Michael A. Chappell, Acting Associate Commissioner for Regulatory Affairs, Food and Drug Administration; Colleen Goggins, Worldwide Chairman, Johnson & Johnson Consumer Group.

Hearing on “Viral Hepatitis: The Secret Epidemic” (June 17, 2010). Witnesses: Rep. Henry C. “Hank” Johnson, Member of Congress; Rep. Bill Cassidy, Member of Congress; Rep. Mike Honda, Member of Congress; Dr. Howard Koh, M.P.H., Assistant Secretary

for Health, United States Department of Health and Human Services; Dr. John Ward, Director, Viral Hepatitis Program, Centers for Disease Control and Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention; Randy Mayar, Chief, Bureau of HIV, STD, and Hepatitis, Iowa Department of Public Health; Michael Nunburg, Executive Director, Hepatitis Education Project; Dr. Jeffery Levi, Executive Director, Trust for America's Health; Rolf Joachim Benirschke, Former NFL Placekicker and Spokesman for Hepatitis C Awareness.

Business meeting to consider H.Res. 546, to recognize the historical significance of Juneteenth Independence Day, and expresses the sense of the House of Representatives that history should be regarded as a means for understanding the past and more effectively facing the challenges of the future, H. Res. 1369, to recognize the significance of National Caribbean-American Heritage Month, H.R. 5341, to designate the facility of the United States Postal Service located at 100 Orndorf Drive in Brighton, Michigan, as the "Joyce Rogers Post Office Building," H.R. 5390, to designate the facility of the United States Postal Service located at 13301 Smith Road in Cleveland, Ohio, as the "David John Donafee Post Office Building," H.R. 5395, to designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the "Paula Hawkins Post Office Building," H.R. 5450, to designate the facility of the United States Postal Service located at 3894 Crenshaw Boulevard in Los Angeles, California, as the "Tom Bradley Post Office Building," H.Con.Res. 288, to support National Men's Health Week, H. Res. 1439, to congratulate the Chicago Blackhawks on winning the 2010 Stanley Cup Championship (June 17, 2010).

Hearing on "Foreclosure Prevention Part II: Are Loan Services Honoring Their Commitments to Help Preserve Homeownership?" (June 21, 2010). Witnesses: Sanjiv Davis, CEO, CitiMortgage, Inc.; Barbara J. Desoer, President, Bank of America Home Loans; David Friedman, President and CEO, American Home Mortgage Servicing, Inc.; Michael J. Heid, Co-President, Wells Fargo Home Mortgage, Wells Fargo & Co.; David Lowman, Chief Executive Officer, Chase Home Finance, Inc.; Edward J. Pinto, Consultant.

Hearing on "Cloud Computing: Benefits and Risks of Moving Federal IT into the Cloud" (July 1, 2010). Witnesses: Vivek Kundra, Federal Chief Information Officer, Administrator for E-Government and Information Technology, Office of Management and Budget; David McClure, Associate Administrator Office of Citizen Services and Innovative Technologies, U.S. General Services Administration; Cita Furlani, Director, Information Technology Laboratory, National Institute of Standards and Technology; Gregory Wilshusen, Director, Information Security Issues, Government Accountability Office; Scott Charney, Corporate Vice President, Trustworthy Computing, Microsoft Corporation; Daniel Burton, Senior Vice President, Global Public Policy, Salesforce.com; Mike Bradshaw, Director, Google Federal, Google Inc.; Nick Combs, Chief Technology Officer, EMC Federal; Gregory Ganger, Professor, Electrical and Computer Engineering, Director, Parallel Data Lab, Carnegie Mellon University.

Business meeting to consider H. Con. Res. 226, supporting the observance of "Spirit of '45 Day," H. J. Res. 90, expressing support

for designation of September 2010 as “Gospel Music Heritage Month” and honoring gospel music for its valuable and long-standing contributions to the culture of the United States, H. Res. 771, supporting the goals and ideals of a National Mesothelioma Awareness Day, H. Res. 1475, congratulating the town of Tarboro, North Carolina, on the occasion of its 250th anniversary, H. Res. 1513, congratulating the Saratoga Race Course as it celebrates its 142nd season, H.R. 5720, to designate the facility of the United States Postal Service located at 1227 Lunailo Street, Honolulu, Hawaii, as the “Cecil L. Heftel Post Office Building,” H.R. 5721, to designate the facility of the United States Postal Service located at 335 Merchant Street, Honolulu, Hawaii, as the “Frank F. Fasi Post Office Building” (July 15, 2010).

Hearing on “Is Brooklyn Being Counted?—Problems with the 2010 Census” (July 19, 2010). Witnesses: Robert M. Groves, Director, U.S. Census Bureau; Todd J. Zinser, Inspector General, U.S. Department of Commerce; Lester A. Farthing, Regional Director, U.S. Census Bureau NY Regional Census Center.

Hearing on “Offshore Drilling: Will Interior’s Reforms Chance its History of Failed Oversight” (July 22, 2010). Witnesses: Ken Salazar, Secretary, United States Department of Interior; Michael Bromwich, Director, Bureau of Ocean Energy Management, Regulation, and Enforcement; Frank Rusco, Director, Natural Resources and Environment, United States Government Accountability Office; Mary L. Kendall, Acting Inspector General, Office of Inspector General, United States Department of Interior; Danielle Brian, Executive Director, Project on Government Oversight.

Business meeting to consider H.R. 5815, the “Inspector General Authority Improvement Act of 2010,” H.R. 5366, the “Overseas Contractor Reform Act,” H.R. 5637, the “American Jobs Matter Act of 2010,” H.R. 2853, the “All American Flag Act,” S. 2868, the “Federal Supply Schedules Usage Act of 2009,” H. Res. 1428, to recognizes Brooklyn Botanic Garden on its 100th anniversary as the pre-eminent horticultural attraction in the borough of Brooklyn and its longstanding commitment to environmental stewardship and education for the City of New York, H. Res. 1546, to congratulate the Washington Stealth for winning the National Lacrosse League Championship, H.R. 3456, to designate the facility of the United States Postal Service located at 1900 West Gray Street in Houston, Texas, as the “Hazel Hainsworth Young Post Office Building,” H.R. 4266, to designate the facility of the United States Postal Service located at 4110 Alameda Road in Houston, Texas, as the “George Thomas ‘Mickey’ Leland Post Office Building,” H.R. 5565, to designate the facility of the United States Postal Service located at 5014 Gary Avenue in Lubbock, Texas, as the “Sergeant Chris Davis Post Office,” H.R. 5584, to designate the facility of the United States Postal Service located at 500 East Whitestone Boulevard in Cedar Park, Texas, as the “Army Specialist Matthew Troy Morris Post Office Building,” H.R. 5605, to designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the “George C. Marshall Post Office,” H.R. 5606, to designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the “James M. ‘Jimmy’ Stewart Post Office Building,” H.R. 5655, to designate the Little River Branch facility of the United States

Postal Service located at 140 NE 84th Street in Miami, Florida, as the “Jesse J. McCrary, Jr. Post Office,” H.R. 5758, to designate the facility of the United States Postal Service located at 2 Government Center in Fall River, Massachusetts, as the “Sergeant Robert Barrett Post Office Building,” H.R. 5831, to designate the facility of the United States Postal Service located at 1081 Elbel Road in Schertz, Texas, as the “Schertz Veterans Post Office” (July 28, 2010).

Hearing on “Implementation of Iran Sanctions” (July 29, 2010). Witnesses: Robert J. Einhorn, Special Advisor for Nonproliferation and Arms Control, U.S. Department of State; Daniel Glasner, Deputy Assistant for Terrorist Financing and Financial Crimes, U.S. Department of Treasury; Joseph A. Neurauter, Deputy Associate Administrator, Office of Acquisition Policy, U.S. General Services Administration; Joseph Christoff, Director, International Affairs and Trade, Government Accountability Office; Avi Jorisch, President, Red Cell Intelligence Group; Mark Dubowitz, Executive Director, Foundation for Defense of Democracies.

Hearing on “Transition in Iraq: Is the State Department Prepared to Take the Lead?” (September 23, 2010). Witnesses: Michael J. Thibault, Co-Chairman, Commission on Wartime Contracting; Grant S. Green, Commissioner, Commission on Wartime Contracting; Stuart J. Bowen, Jr., Special Inspector General for Iraq Reconstruction.

Hearing on “Johnson & Johnson’s Recall of Children’s Tylenol and Other Children’s Medicines and the Phantom Recall of Motrin (Part 2)” (September 20, 2010). Witnesses: William C. Weldon, Chairman and CEO, Johnson & Johnson; Colleen Goggins, Worldwide Chairman, Consumer Group, Johnson & Johnson; Joshua M. Sharfstein, M.D., Principal Deputy Commissioner, Food and Drug Administration.

Business meeting to consider H.R. 3243, a bill “to amend section 5542 of title 5, United States Code, to provide that any hours worked by federal firefighters under a qualified trade-of-time arrangement shall be excluded for purposes of determinations relating to overtime pay,” H.R. 5367, the “D.C. Courts and Public Defender Service Act of 2010,” H.R. 5702, a bill “to amend the District of Columbia Home Rule Act to reduce the waiting period for holding special elections to fill vacancies in the membership of the Council of the District of Columbia,” H.R. 5368, the “United States Postal Service Postal Inspectors Equity Act,” H. Res. 1442, To support the goals and ideals of United States Military History Month, H. Res. 1494, to congratulate the champion, finalists, and all other participants in the 83rd Annual Scripps National Spelling Bee, H. Res. 1529 to commend Bob Sheppard for his long and respected career as the public-address announcer for the New York Yankees and the New York Giants, H. Res. 1603, to express support for designation of September 2010 as National Craniofacial Acceptance Month, H. Res. 1617, to support the goals and purpose of Gold Star Mothers Day, which is observed on the last Sunday in September of each year in remembrance of the supreme sacrifice made by mothers who lose a son or daughter serving in the Armed Forces, H.R. 4602, to designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the “Emil Bolas Post Office,” H.R. 5877, to designate the

facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the “Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building,” H.R. 6014, to designate the facility of the United States Postal Service located at 212 Main Street in Hartman, Arkansas, as the “M.R. ‘Bucky’ Walters Post Office,” H.R. 6118, to designate the facility of the United States Postal Service located at 2 Massachusetts Avenue, N.E., in Washington, D.C., as the “Dorothy I. Height Post Office Building,” S. 3567, to designate the facility of the United States Postal Service located at 100 Broadway in Lynbrook, New York, as the “Navy Corpsman Jeffrey L. Wiener Post Office Building” (September 23, 2010).

VII. SUBCOMMITTEE ACTIVITIES

A. SUBCOMMITTEE ON DOMESTIC POLICY

The Subcommittee on Domestic Policy has jurisdiction over domestic policies, including matters relating to energy, labor, education, criminal justice, and the economy. The Subcommittee also has legislative jurisdiction over the Office of National Drug Control Policy. During the 111th Congress, Rep. Dennis Kucinich served as Chairman and Rep. Jim Jordan as Ranking Member.

1. *Foreclosure Prevention*

The Subcommittee held three hearings on the foreclosure crisis and the federal response to it. Two were field hearings. Working directly with the U.S. Department of the Treasury, the Subcommittee also successfully advocated for a \$15 billion nationwide principal reduction program for “underwater” borrowers and the creation of new flexibility in the use of federal foreclosure prevention funds by state housing agencies.

a. Foreclosure in the “Sun Belt”

An Atlanta field hearing in November 2009 focused on the contours of the foreclosure crisis as they manifest in a high-growth, Sun Belt region. The hearing was requested by Full Committee member Lynn A. Westmoreland. The testimony and information that the Subcommittee heard in Atlanta painted an image of a metropolitan area that is, in many ways, a microcosm of America: vibrant, growing in population, and replete with economic opportunities for individuals and businesses. Yet, in Atlanta, as in most other major metropolitan areas of this country, what was once seen as a “boom” in real estate deteriorated into the Great Recession, ravaging neighborhoods with record levels of foreclosure, unemployment, and vacant commercial space. As Professor Frank Alexander of Emory University School of Law noted in his testimony, the root causes of the real estate finance crisis that continues to devastate Atlanta closely parallel the causes of the crisis across America: “Borrowers and lenders made loans based on completely unrealistic expectations about ever-rising property values.” Testimony from legal advocates, representatives of local government, businesspersons, and community leaders in Atlanta confirmed the history of the city’s residential real estate boom and bust. Homebuilders, who once had so much business that they could barely keep up with demand, testified that they now found their economic

livelihoods threatened as financing for any new projects was non-existent. The head of the Georgia Bankers Association told the Subcommittee of the difficulties faced by its members. A representative of the Federal Reserve Board warned that the large regional and community banking firms, which have accumulated “unprecedented concentrations of commercial real estate loans,” will be particularly affected by deteriorating conditions in real estate markets.¹

Witnesses at the Atlanta field hearing also testified about the economic devastation that the foreclosure epidemic has caused residential communities. Lenders had made risky loans and subsequently off-loaded the risk of those loans from their books. This limited the lenders’ incentives to adhere to careful underwriting requirements. As William Brennan, Jr., the director of the Atlanta Legal Aid Home Defense Program testified, “[t]he subprime [loan] securitization system was purposely designed to disperse risk in a way that immunized investors from the legal consequences of making unaffordable mortgage loans that were the foundation of the securities they invested in.”

Several witnesses emphatically repeated the same message to the Subcommittee about this crisis: to prevent another crisis, Congress should legislate a mechanism for assignor liability in mortgage loans, as forcing lenders to keep some significant portion of the loans on their balances sheets would go a long way toward ensuring that lenders retained a stake in the outcome of the loans.

b. Foreclosure in the “Rust Belt”

A Cleveland field hearing in December 2009 revealed a different face of the foreclosure problem. For the Cleveland metropolitan area the residential foreclosure crisis started earlier, persisted longer and, in many ways, was more destructive than elsewhere in the United States. The Cleveland metropolitan area experienced high rates of foreclosures as early as 2000.² Despite being passed over by the widespread appreciation in housing prices, Northeast Ohio suffered from the wave of predatory lending and lax regulatory action that characterized the housing boom elsewhere.³ Concurrent job losses resulted in a population flight that has been among the most severe in the nation: Cuyahoga County, which includes the City of Cleveland, has lost nearly seven percent of its population since 2000. The City of Cleveland saw nearly 30,000 citizens leave from 1990 to 2000, and another 60,000 from 2000 to 2008.⁴ The result is a blight of vacant and abandoned housing, with more than 10,000 vacant and derelict structures in Cuyahoga County alone.⁵

¹Testimony of Mr. Jon Greenlee, Board of Governors, Federal Reserve, to Domestic Policy Subcommittee, Nov. 2, 2009.

²Federal Reserve Bank of Cleveland, 2008 Annual Report Essay: *Breaking the Housing Crisis Cycle*, (online at www.clevelandfed.org/About/Us/annual_report/2008/2008_Essay.cfm) (accessed Nov. 20, 2009).

³Kathryn W. Hexter and Molly Schnoke, Center for Community Planning Maxine Goodman Levin College of Urban Affairs, *Responding to Foreclosures in Cuyahoga County: Program Year Three Evaluation Report, March 1, 2008 Through February 28, 2009*, Cuyahoga County Board of Commissioners, (Sep. 25, 2009).

⁴Rich Exner, *Metro Cleveland is 3rd Nationally in Population Loss*, Cleveland Data Central Index, (online at www.cleveland.com/datacentral/index.ssf/2009/03/metro_cleveland_is_third_natio.html) (accessed Nov. 20, 2009).

⁵Kathryn W. Hexter and Molly Schnoke, *supra* note 3.

Cleveland's long experience with the foreclosure crisis also spurred creative local responses. For example, to address the crime and urban decay that accompanies vacant and abandoned structures, individuals and groups from Cuyahoga County and the City of Cleveland have utilized methods such as demolition of vacant structures, land banking, and aggressive housing code enforcement. For the many homeowners who struggle to avoid foreclosure, Cuyahoga County Treasurer Jim Rokakis innovated "Don't Borrow Trouble," a public education program, and the "Foreclosure Prevention Project," a mediation program available for any home loan borrower facing a foreclosure action. In addition, a collection of statewide advocacy organizations have implemented aggressive foreclosure-prevention counseling programs with a remarkable success rate: over 50 percent of borrowers receiving counseling have avoided foreclosure.⁶

Foreclosure-prevention efforts rely significantly on federal funding and leadership to continue operations. Mark Seifert, the Executive Director of Empowering and Strengthening Ohio's People (ESOP), a statewide advocacy organization and HUD-approved foreclosure-prevention counseling agency, provided compelling testimony about the need for enhanced federal support and for changes to the federal-foreclosure prevention mechanism. In his testimony, Seifert made three points about the Obama administration's hallmark initiative, the Home Affordable Modification Program (HAMP). First, HAMP is not working to keep borrowers in their homes, because it does not mandate thorough debt counseling for borrowers, which Seifert testified is the most effective way to prevent re-default once a borrower obtains a loan modification from his or her loan servicer. Second, Seifert said even the lucky borrowers admitted into "trial modification" status face the nightmare of navigating bank bureaucracies, a lengthy and frustrating process. Finally, Seifert urged that HAMP be altered to include a principal reduction component for borrowers who are underwater on their mortgages.

c. Evaluating the Federal Response to Foreclosure

The Subcommittee held a hearing in Washington, D.C., in February 2010 to evaluate HAMP. HAMP was launched with the goal of incentivizing loan modifications for three to four million homeowners in owner-occupied homes who are at risk of foreclosure, as part of the larger goal of preserving home ownership and protecting home values.⁷ But HAMP was underachieving. As of December 2009, loan servicers participating in HAMP had only modified about 66,000 mortgages. It appeared to the Subcommittee that the administration's centerpiece effort was having no more than a marginal influence on the worst crisis to hit the American homeowner since the Great Depression. In addition to the question of whether HAMP was keeping up with borrower need, the Subcommittee focused attention on whether HAMP was offering meaningful assistance that could make a real difference in the fate of homeowners. A December 2009 analysis by the Federal Reserve Bank of New

⁶Frank Ford, Sr., *Foreclosure and Housing Market Facts and Trends: Cleveland and Cuyahoga County*, Neighborhood Progress, Inc., (Oct. 1, 2009), copy available with author.

⁷U.S. Department of the Treasury fact sheet, "Making Home Affordable: Updated Detailed Program Description," (Mar. 4, 2009).

York of data on pre-HAMP subprime mortgage modifications concluded that principal forgiveness was more than twice as effective in slowing re-defaults as reducing an interest rate.⁸

However, the primary method by which a borrower seeking to avoid foreclosure under HAMP obtains any relief from an unsustainable mortgage payment is by a reduction in the interest rate on the mortgage, not principal reduction. Data from the Treasury Department show that 100 percent of permanent modifications under the HAMP process include an interest rate reduction, 43 percent include loan term extension, 26 percent include principal forbearance,⁹ and, according to the most recent data available, less than 10 percent involve principal reductions.

Those statistics indicated to the Subcommittee that HAMP was not offering the appropriate aid. As one scholar put it, “The principal amount of mortgage debt in the U.S. must be reduced in order to bring down delinquency and foreclosure levels and stop the erosion in home prices,”¹⁰ yet HAMP does little to address this issue.

At the Subcommittee’s February 2010 hearing, Chairman Kucinich strongly expressed his impatience with the administration’s avoidance of principal reduction and challenged the administration to do more.

d. Creation of New Policy

Having laid the groundwork through extensive oversight,¹¹ the Subcommittee set about the goal of reforming federal foreclosure policy. The Subcommittee focused on two objectives: (1) improving HAMP by embracing principal reduction for eligible, distressed borrowers; and (2) enhancing the flexibility of state housing agencies in their use of federal foreclosure prevention funds.

The Subcommittee gathered and evaluated a number of proposals for effecting principal reduction on a national scale. Chairman Kucinich settled on one of them, which was developed by Professor Alexander, and in February 2010 initiated a dialogue with upper management at the Department of Treasury on the subject of refinancing existing mortgages at a discount, with funds from the Federal Housing Administration and private lenders at a lower amount of principal. This procedure is known as a “Short Refi”, whereby the lender realizes a loss on the original loan and the borrower stays in the home and receives a new loan at a lower amount of principal, corresponding with the depreciated value of the home. The government pays the lender for related transaction costs. As a result, in April 2010, Treasury announced a \$15 billion Short Refi program that could help as many as one million borrowers.

⁸Federal Reserve Bank of New York Staff Report, *Second Chances: Subprime Mortgage Modification and Re-Default*, Report No. 417, (Dec. 2009).

⁹Treasury Department data for HAMP permanent loan modifications as of December, 2009.

¹⁰Alan White, *Deleveraging the American Homeowner: The Failure of 2008 Voluntary Mortgage Contract Modifications*, at 4. (online at: ssrn.com/abstract=1325534).

¹¹In addition to the three hearings held in the 111th Cong., the Subcommittee held six hearings on foreclosure and related housing topics in the 110th Congress. They were: *Hearing on Foreclosure, Predatory Mortgage & Payday Lending in America's Cities*, 110th Cong., 1st Session (Mar. 21, 2007); *Hearing on Foreclosure and the Federal Reserve Bank of Cleveland*, 110th Cong., 1st Session (May 21, 2007); *Hearing on Upholding the Spirit of the Community Reinvestment Act: Do CRA Ratings Accurately Reflect Bank Practices?* 110th Cong., 1st Session (Oct. 24, 2007); *Hearing on Neighborhoods: The Blameless Victims of the Subprime Mortgage Crisis*, 110th Cong., 2nd Session (May 21, 2008); *Hearing on Targeting Federal Aid to Neighborhoods Distressed by the Subprime Mortgage Crisis*, 110th Cong., 2nd Session (May 22, 2008); and *Hearing on Is Treasury Using Bailout Funds to Increase Foreclosure Prevention, as Congress Intended?*, 110th Cong., 2nd Session (Nov. 14, 2008).

The Subcommittee's long engagement on foreclosure policy also led to the resolution of a significant obstacle facing state housing agencies that want to use federal funds to prevent foreclosures. Chairman Kucinich had advocated for expansion of a special fund for states hardest hit by foreclosures and for state flexibility in using such federal funds to hire significantly increased numbers of foreclosure-prevention counselors. Foreclosure-prevention counselors identify and work on behalf of borrowers eligible for federal home loan modification assistance.

Though the Obama administration recognized the value of foreclosure prevention counseling, commonly held interpretations of Treasury Department guidelines restricted federal funds to reimbursement after the services were rendered. This restriction effectively denied non-profit counseling providers the seed money required to hire and train new counselors to meet the staggering need in states hardest hit by foreclosures and, thereby, limited the effectiveness of the administration's foreclosure-prevention efforts. The Subcommittee worked with Treasury to find a way for states to have the ability to forward-fund the hiring of foreclosure prevention counselors with federal funds. In June 2010, the Subcommittee and Treasury announced an agreement that allows states designated as hardest hit by foreclosures to give non-profit counseling providers access to federal funds on a drawdown basis to hire and train new counselors. A number of safeguards were put in place to ensure that the funds are used properly.

2. Investigation of Bank of America

The Subcommittee mounted a nine-month investigation of Bank of America's merger with Merrill Lynch and the extraordinary federal support given to it. Based largely on the findings of our investigation and our five joint hearings on the matter, the Securities and Exchange Commission (SEC) and the New York State Attorney General both prosecuted Bank of America for securities fraud.

In mid-January 2009, just days before Merrill Lynch disclosed losses of \$21.5 billion for the fourth quarter of 2008, the Treasury Department publicly announced two initiatives under the Troubled Asset Relief Program (TARP) to support Bank of America, which had acquired Merrill Lynch the previous month: a cash infusion of \$20 billion and a guarantee plan, in conjunction with the Federal Reserve and FDIC, to limit Bank of America's exposure to losses on a pool of \$118 billion of "ring-fenced" company assets.¹² The cash infusion supplemented \$25 billion of previous TARP investments under the Capital Purchase Program for Merrill Lynch and Bank of America. The Domestic Policy Subcommittee launched its investigation of Bank of America to discover why it needed such extraordinary federal support to complete its merger with Merrill Lynch and whether the support was proper, given the possibility that Bank of America's desperate financial condition was largely rooted in its own misbehavior.

¹²The asset guarantee was never formalized, but its initial announcement greatly benefited Bank of America's status in financial markets, and Bank of America subsequently paid \$425 million to Treasury, the Federal Reserve, and FDIC for that benefit. See *November Oversight Report: Guarantees and Contingent Payments in TARP and Related Programs*, at 23–27 (Nov. 6, 2009) (online at cop.senate.gov/documents/cop-110609-report.pdf).

The Subcommittee's investigation spanned nine months and included a review of over 400,000 pages of documents gathered from Bank of America, its lawyers, the Federal Reserve, and others. The Subcommittee held five hearings jointly with the full Oversight Committee, and received testimony from Bank of America's chief executive officer Ken Lewis, former Treasury Secretary Hank Paulson, Federal Reserve Board Chairman Ben Bernanke, and the SEC's head of enforcement.

The Subcommittee's investigation documented how the bailout occurred: Only 12 days after shareholders ratified the merger on December 5, 2008, Bank of America's Ken Lewis made an urgent appeal to then-Treasury Secretary Hank Paulson. He stated that Bank of America had only just become aware that Merrill Lynch's portfolio had suffered catastrophic losses, which threatened the financial health of new owner Bank of America. Lewis disclosed that Bank of America was considering its legal options to back out of its merger. Internal analysis and heated discussion ensued, at the Federal Reserve and among Treasury, the Federal Reserve, and Bank of America. Federal Reserve analysts dismissed Lewis's contention that Bank of America had only just become aware of Merrill Lynch's serious financial problems. Their review of documents that Bank of America produced to them revealed that Bank of America knew or should have known about Merrill Lynch's deteriorating financial position in mid-November 2008. Crucially, Federal Reserve analysts believed that Bank of America knew about Merrill Lynch's true financial position before shareholders of both companies voted to ratify the merger. Analysts also believed that Bank of America owned assets that were similar to the Merrill Lynch problem assets and were suffering similar declines. The Federal Reserve's general counsel speculated that Bank of America could be in jeopardy of violating federal securities law by failing to disclose to shareholders the magnitude of Merrill Lynch's likely losses before subjecting the proposed merger to shareholder approval. But the Federal Reserve did not share its information on Bank of America's knowledge or its tentative legal analysis with the SEC. Rather, Federal Reserve and Treasury officials pushed back hard on Bank of America to abandon its consideration of withdrawing from the merger, which was an action that they believed was both not supportable under the applicable legal standards and reckless from the perspective of macroeconomic stability. Bank of America quickly adopted the government position, and tripartite discussions continued about the level of direct federal government support, which assets to include in the "ring-fence" protection plan, and the optimal timing of a public announcement of the support.

The Subcommittee collected documents and conducted interviews with the primary Bank of America officials and lawyers to get to the heart of the question: "What did Bank of America executives know about losses at Merrill Lynch, and when did they know it?" The Subcommittee uncovered a key document, a spreadsheet that revealed that on November 12, 2008, Merrill Lynch's internal forecast of fourth quarter 2008 results projected a quarterly pre-tax loss of \$8.9 billion. But the forecast document contained a glaring omission: it omitted any forecast of how the most troublesome investments—collateralized debt obligations, subprime mortgage-backed securities, and credit default swaps—would perform in No-

vember and December. In an interview with Subcommittee staff, the former Merrill Lynch chief financial officer admitted that the November 12 forecast was not, in fact, a valid forecast. Bank of America was provided a copy of this forecast document by Merrill Lynch. Bank of America also recognized that the November 12 forecast was deficient on the most crucial aspect of the acquisition—the potential for huge losses at Merrill Lynch. In an interview with staff, Bank of America conceded that the November 12 forecast was of “questionable validity.”

But the subsequent actions of Bank of America would result in a series of decisions that denied shareholders material information. The next day, November 13, 2008, Bank of America made a slight revision to the Merrill forecast, raising projected losses to \$10.9 billion. However Bank of America did not conduct any additional analysis to account for the Merrill Lynch omissions. On the contrary, Bank of America pulled a number out of thin air, based on the “gut” feeling of a Bank of America official, which was subsequently recorded on the forecast document. In fact, a handwritten comment by a key Bank of America official memorialized that the adjustment was just a “gut” feeling. Nevertheless, all those relying on the document believed that Merrill Lynch’s illiquid assets would almost break even for November and December because there was only a small loss indicated for November and no estimated loss or gain recorded in December’s corresponding cell of the spreadsheet. The spreadsheet’s column for the fourth quarter projection effectively spread October’s huge reported losses on these assets over three months.

Bank of America’s chief financial officer met with the company’s general counsel to discuss its shareholder disclosure obligations in light of the revised November 12 forecast. That same day, the general counsel contacted lawyers at Wachtell, Lipton, Rosen & Katz, a law firm representing Bank of America on shareholder disclosure and SEC filing issues, to consider the question of whether or not Bank of America owed shareholders additional disclosure to supplement the November 3 proxy solicitation. The attorneys at Bank of America and at Wachtell, Lipton did not question the financial information they were given, in spite of the glaring and obvious omission and the explicit reference to a “gut” feeling.

A week later, on November 20, 2008, the general counsel and Wachtell attorneys advised the chief financial officer that the company did not need to make additional shareholder disclosures. In other words, they allowed shareholders to vote on a multibillion dollar merger amidst financial turmoil based on company financial forecasts that were obviously grossly deficient and based significantly on a “gut” feeling.

The misconduct did not end there. Bank of America’s Ken Lewis and Merrill Lynch’s CEO John Thain also agreed to pull another number out of thin air to revise a December 3 forecast, just two days before the scheduled shareholder vote. Bank of America’s general counsel was made familiar with the financial data contained in the December 3 revised forecast, and he decided there was still nothing to disclose to shareholders.

The Subcommittee’s findings formed the basis of three possible legal violations by Bank of America: First, a violation of Section 11 of the 1933 Securities Act, which creates private civil liabilities for

false registration statements; second, a violation of Rule 14a-9 under the 1934 Exchange Act, which prohibits false or misleading proxy solicitations; and third, a violation of Rule 10b-5 under the 1934 Act, which makes it unlawful “[t]o make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, . . . [t]o engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.”

Based largely on findings from the Subcommittee’s investigation of the Bank of America-Merrill Lynch merger, the SEC charged Bank of America with violations of Rule 14a-9, for negligently withholding information from shareholders about mounting losses known and knowable at Merrill Lynch before the shareholder vote. The New York Attorney General also used our investigative findings as the basis for his prosecution of Bank of America for violations of the Martin Act.

3. Oversight of the Troubled Asset Relief Program

The Subcommittee held three hearings and issued one report on the subject of the TARP.

a. Use of TARP Funds by TARP Recipients

On March 9, 2009, the Subcommittee released a report on questionable transactions effected by the largest TARP recipients after they received federal bailout monies. For example, Citigroup made an \$8 billion loan to Dubai public sector entities on or about December 14, 2008. The then-chairman of Citigroup said the following about the transaction: “We continue to place the Gulf region among our globally most significant markets.”¹³ Citigroup received \$25 billion of TARP funds on October 26, 2008, which was only the first installment of TARP support it received. The Subcommittee also found that, on or about November 11, 2008, J.P. Morgan Treasury Services, a subsidiary of JPMorgan Chase & Co, made a \$1 billion investment for development of cash management and trade finance solutions in India.¹⁴ JPMorgan Chase & Co. received \$25 billion in TARP funds on October 26, 2008. And the Subcommittee identified a \$7 billion investment by Bank of America in China Construction Bank Corporation, made after November 17, 2008. This purchase constituted the exercise of an option acquired from China SAFE Investments Limited (Huijin).¹⁵ Bank of America received a first installment of \$25 billion in TARP funds on October 26, 2008.

The Subcommittee also found that the Treasury Department did not know about these or any other specific transactions because Treasury chose not to monitor how TARP recipient banks used TARP funds. Under existing agreements between Treasury and TARP recipient financial institutions, Treasury had broad contrac-

¹³ Citigroup, Press release, *Citi Arranges More than \$8 Billion for Dubai* (Dec. 14, 2008) (online at: <http://www.citigroup.com/citi/press/2008/081215a.htm>).

¹⁴ JPMorgan Chase & Co., Press release, *J.P. Morgan Enhances Its Domestic Cash Management & Trade Services in India* (Nov. 11, 2008) (online at: investor.shareholder.com/jpmorganchase/press/releasedetail.cfm?releaseid=347366&ReleaseType=Current).

¹⁵ Bank of America, Press release, *Bank of America to Exercise Remainder of China Construction Bank Option* (Nov. 17, 2008) (online at http://newsroom.bankofamerica.com/index.php?s=press_releases&item=8295).

tual authority to scour company books in search of, among other things, waste and abuse by TARP recipients. But in practice, Treasury was not doing so. Treasury also neglected to conduct oversight of TARP monies disbursed through the Capital Purchase Program to prevent their use for perks for company management, loans to foreign governmental authorities, investments in outsourcing jobs held by Americans, investments in foreign company operations overseas, the repurchase of company common stock, or any other potential example of waste and abuse. In its form at the time of the Subcommittee's examination, the Capital Purchase Program of TARP left recipient companies free to use federal funds as they would any other source of income, under the presumption that they were constrained only by the use of sound business judgment. On March 11, 2009, the Subcommittee held a hearing with the top Treasury official in charge of TARP.¹⁶

b. Government as Shareholder

American International Group, Inc. (AIG), General Motors (GM), Citigroup, and Chrysler were each in extreme distress between October 2008 and June 2009, and all four companies almost certainly would have failed without enormous infusions of financial support from government. Unlike other TARP infusions, the Treasury converted its support for those four companies to common equity holdings. The Subcommittee held two hearings on this subject in December 2009.

The sheer magnitude of U.S. government financial exposure justified a close look at the structures through which U.S. taxpayers' interests were being managed and protected. The monies invested were substantial. As of September 2, 2009, the total outstanding federal government assistance committed to AIG stood at \$120.7 billion, of which \$69.8 billion was TARP investment by Treasury.¹⁷ As of September 30, 2009, Treasury's net investment in the auto industry totaled \$79 billion, and investments in Citigroup stood at \$50 billion.¹⁸ The \$200 billion the federal government invested in these four companies represented well more than half of the \$381.4 billion net cumulative funds invested by Treasury under the TARP as of September 30, 2009.

The Treasury Department's decision to exchange a substantial portion of each company's outstanding debt notes for common equity (voting) shares or their equivalents raised additional, and special, concerns. As of October 2010, U.S. voting rights constituted outright majorities in AIG (nearly 80 percent) and GM (61 percent), while in Citigroup and Chrysler the combination of government shareholding and the broad scope of additional federal support makes the U.S. government the dominant shareholder.¹⁹ As domi-

¹⁶The Subcommittee held a previous TARP oversight hearing in the 110th Congress: Domestic Policy Subcommittee, Oversight and Government Reform Committee, *Hearing on Is Treasury Using Bailout Funds to Increase Foreclosure Prevention, as Congress Intended?*, 110th Congress, 2nd Session (Nov. 14, 2008).

¹⁷Government Accountability Office, *Troubled Asset Relief Program: Status of Government Assistance to AIG* (GAO-09-975) (Sep. 2009), (online at <http://www.gao.gov/new.items/d09975.pdf>).

¹⁸Office of the Special Inspector General for the Troubled Assets Relief Program, *Quarterly Report to Congress* (Oct. 21, 2009), (online at www.sig tarp.gov/reports/congress/2009/October2009_Quarterly_Report_to_Congress.pdf).

¹⁹For example, federal support to Citigroup includes a guarantee whereby the federal government has exposure of up to \$260 billion of losses on \$300 billion of the bank's pool of asset-backed securities. According to SIGTARP's Quarterly Report to Congress (Oct. 21, 2009) the list of assets to be "ring-fenced" was not finalized when the guarantee was extended, but was ex-

nant shareholder, the U.S. government has a right to participate in board-level management decision-making and place a fiduciary responsibility on the government to ensure effective corporate governance. The large government shareholding also introduces additional concerns about how the different U.S. government roles as investor and fiduciary, regulator, and policy maker are best kept in balance.

In addition, the Emergency Economic Stabilization Act of 2008, which established TARP, set forth multiple policy goals, including restoring liquidity and stability to the financial system; protecting home values, college funds, retirement accounts, and life savings; preserving home ownership; promoting jobs and economic growth; and maximizing overall returns to taxpayers.²⁰ These goals will not necessarily be in alignment in all circumstances. In the case of the auto companies, some actions that were deemed necessary in the short-run to preserve long-term company viability have led to accelerated plant and dealership closings, with major reductions in employment, and, as a result of bankruptcy and restructuring, loss of pension security for substantial numbers of individuals. Similarly, where the U.S. government is a holder of large numbers of common equity shares, it is possible that the goal of maximizing returns to taxpayers may be in conflict with the desire for a quick exit.

In spite of its large equity holdings, the U.S. was a passive shareholder. Treasury's self-imposed restraint raised a number of concerns. Witnesses at the Subcommittee's December 16, 2009, hearing attributed the dire straits into which distressed companies fell to deficiencies in their boards of directors; federal bailout therefore should be accompanied by corporate governance reform. Ralph Nader, the consumer advocate, testified at the hearing that, "[W]hen the Government is a dominant or controlling shareholder not of its own asking, the Government has an obligation not to invest passively; it should use its ownership powers to clean up management and, mindful of its duty to safeguard taxpayer financial interest, it should also pursue statutory public interest mandates in areas such as consumer, environment protection, financial stability, and financial honesty."²¹ Anne Simpson of CalPERS, one of the largest institutional investors in the world, concurred that reform of corporate governance should be a preoccupation of government shareholding, "[G]overnance reform is no guarantee, but it gives us a framework to hold boards accountable, and we urge the Government, as a fellow shareowner, to help us develop and use the tools we need to hold these boards accountable."²² Professor Espen Eckbo of Dartmouth testified that the government should use its authority as a shareholder to "restructure the system on a broad scale to support, to push for election reform for directors. It means go into the company and vote charter amendments, for ex-

pected to be finalized by October 31, 2009. Initial plans called for Citigroup to absorb \$39.5 billion in losses prior to government support; and TARP assets would cover the next \$5 billion in losses, with FDIC (\$10 billion) and the Federal Reserve Bank of New York responsible for any remaining requirements.

²⁰ Emergency Economic Stabilization Act of 2008 (Pub. L. No. 110-343).

²¹ Domestic Policy Subcommittee, Oversight and Government Reform Committee, *Hearing on The Government as Dominant Shareholder: How Should The Taxpayers' Ownership Rights Be Exercised?* 111th Cong. 1st Session (Dec. 16, 2009) (hereinafter "Government as Shareholder Tr.") at 46.

²² Government as Shareholder Tr. at 35.

ample, where we take away staggered board provisions; we separate the chairmanship and the CEO position.”²³

4. *Consumer Protection*

The Subcommittee issued a report and held a hearing on the use of forced arbitration in consumer debt collections. The Subcommittee also persuaded the largest provider of arbitration services and nine of the largest credit-card issuing banks to abandon the practice.

Arbitration creates a third system of justice that operates parallel to the federal and state judicial systems. In the context for which the Federal Arbitration Act was enacted, i.e., commercial disputes between businesses, arbitration can be more expeditious, less costly, and as fair as the two other judicial systems. However, most “consumer arbitrations” present a totally different situation. Consumers and banks do not mutually consent to have their future disputes arbitrated; banks require in their credit card contracts that consumers give up their right to have cases heard by judges and juries. That provision is often buried in very fine print, and, as a practical matter, consumers have no opportunity to negotiate the terms of this relationship. The arbitrators in consumer claims, typically attorneys or retired judges, base their decisions in most cases solely upon written statements made by the attorneys representing the creditor. The claims are sent to the arbitrator in batches by the arbitration provider. Responses by the consumer are very rare. Usually, the “hearing” is nothing more than a review by the arbitrator of the written statements provided by the creditor or its attorney, without physical appearances by either the creditor or the consumer. Mandatory consumer arbitration lacks the safeguards that have been designed into our judicial system by our Constitution, by state and federal statutes, and by centuries of judicial decisions.

Almost all of these forced debt collection arbitrations were conducted by the National Arbitration Forum (NAF).²⁴ The Subcommittee investigation reviewed over 50,000 pages of documents that were produced by the three largest providers of arbitration services. That review led the Subcommittee to believe that different arbitrators might be issuing different decisions based on the same or similar facts. In order to determine if that was the case, the Subcommittee requested files in 159 claims administered in California by the NAF. All of these claims were filed by the same creditor at approximately the same time. Two arbitrators dismissed each of the 58 claims that were assigned to them; the third arbitrator issued awards to the creditor in every one of the claims assigned to him. Subcommittee staff reviewed those files and could not discover any differences in these claims that would justify the disparate results. Similarly, the Subcommittee review of 80 additional claims files of two other arbitrators who decided uniformly for the creditor found no differences that would justify the different results.

²³ Government as Shareholder Tr. at 78–79.

²⁴ The AAA has conducted one trial program (the “Encore/MCM” program) that ended in June of 2009. In contrast, the NAF administered over 30,000 consumer debt collection arbitrations in California alone between January 1, 2003 and March 31, 2007.

While it is true that the vast majority of consumers default and do not appear when claims are brought against them in courts, this does not mean that debts are fairly owed by all consumers. Some, such as victims of identity theft or mistaken identity, have legitimate defenses. But our analysis of the claim files demonstrated that the arbitration system, as it was operated by NAF, did not provide protection for these or other consumers. The system was ripe for abuse, and it was in fact abused by the largest administrator of consumer arbitrations.

In parallel with the Subcommittee's investigation, the Attorney General of the State of Minnesota filed a lawsuit against the NAF for fraud on July 14, 2009. She alleged financial connections between the NAF and debt collection companies and law firms. NAF, she alleged, was owned and controlled by the same business entities that owned and controlled the three largest collection companies in the country, companies that filed over half of the claims that were processed through the NAF. The lawsuit also alleged that NAF, the three collection companies, and the business entities that owned and controlled them all sought to conceal the existence of their relationship. Days before the Subcommittee's hearing, the State of Minnesota announced settlement of its fraud charges against NAF; a condition of the settlement was that NAF agreed to stop administering any consumer arbitrations.

Prior to the Subcommittee's hearing, we exposed to the American Arbitration Association (AAA), the largest provider of arbitration services, the way in which AAA's method of conducting arbitrations was lacking critical elements of fundamental fairness and due process. In response, AAA agreed with the Subcommittee's request to discontinue debt collection arbitrations in NAF's absence. Following the Subcommittee's hearing, we established a dialogue with the largest credit card issuing banks. As a result of those communications, seven of the nation's largest credit card issuing banks voluntarily abandoned their requirement that consumers waive their legal rights and consent to mandatory arbitration of claims, including debt collection. Two additional banks eliminated debt collection arbitration from their agreements.

5. Drug Policy

The Subcommittee held five oversight hearings in the 111th Congress in exercise of its oversight and legislative responsibility for drug policy and the Office of National Drug Control Policy (ONDCP). The Subcommittee influenced ONDCP to take several actions to improve its effectiveness, including basing its policy decisions on research and science, shifting federal policy to focus more on addressing the public health consequences of drug use, implementing processes to improve its performance measurement system, and changing its budget reporting structure.

a. Budget Oversight

The first two hearings the Subcommittee held on drug policy were annual budget oversight hearings. On May 19, 2009, the Subcommittee held a hearing examining the priorities and objectives of ONDCP under the new administration and whether those goals were reflected in the Fiscal Year 2010 National Drug Control

Budget.²⁵ The hearing focused on the need for the new Administration to refocus efforts on demand-side programs, which have proven far more effective than supply-side tactics in reducing drug use in the United States.

The FY 2010 Budget, which was formulated primarily under the Bush administration, continued to heavily fund supply-reduction strategies, allocating 65.6 percent of the budget to supply-side initiatives, and only 34.4 percent to demand-side efforts. As explained by budget and drug-policy expert John Carnevale, under the Bush administration, resources for supply reduction witnessed a nine-fold increase. Interdiction spending grew the most over the FY2002–09 period, increasing by 101 percent, from about \$1.91 billion to \$3.84 billion. On the other end of the spectrum, resources for prevention were actually reduced by 10 percent, from \$2 billion to \$1.79 billion over the FY 2002–2009 period. As reflected in the hearing testimony, the previous administration’s emphasis on international supply-reduction efforts were ineffective in reducing drug use and abuse. Mr. Carnevale urged the Obama administration to take drug policy in a new direction and “heavily invest in demand reduction.”²⁶ As Peter Reuter, another prominent drug policy expert, opined, “Both history and argument show that U.S. international efforts to control drug production and trafficking cannot do much more than affect where and how coca and opium poppies are grown. The quantity produced is minimally affected, since suppression of production in one country almost invariably leads to expansion in another.”²⁷ Experts agreed that without greater demand-side efforts, the U.S. would never make a serious dent in drug abuse in the country.

Problems with ONDCP’s budget formulation and reporting process were highlighted at the hearing. In addition to the National Drug Control Strategy, ONDCP compiles and publishes an annual National Drug Control Budget Summary. In FY 2004, ONDCP revised its method for compiling the federal drug control budget by narrowing its scope to include only those activities that were deemed to have a “primary” drug control purpose and a separate line item account, excluding programs if their drug-related funding represented very small portions of the agencies’ total budgets or if the reported drug related spending was a derivation from the agencies budget. The result of the restructuring was the omission of over 30 national drug control agencies and programs totaling over \$7 billion in federal expenditures. Many of the omitted programs are from the enforcement side of the budget, namely costs associated with the consequences of drug use and of prosecuting and incarcerating federal drug offenders. These omissions skew the appearance of overall budget expenditures on drug policy.

²⁵ Domestic Policy Subcommittee, Oversight and Government Reform Committee, *Hearing on ONDCP’s Fiscal Year 2010 National Drug Control Budget and the Policy Priorities of the National Drug Control Policy under the New Administration*, 111th Cong., 1st Session (May 19, 2009).

²⁶ *Id.*

²⁷ Written Testimony of Peter Reuter, Ph.D., Domestic Policy Subcommittee, Oversight and Government Reform Committee, *Hearing on ONDCP’s Fiscal Year 2010 National Drug Control Budget and the Policy Priorities of the Office of National Drug Control Policy under the New Administration*, 111th Cong., 1st Session (May 19, 2009) (hereinafter “FY2010 Budget Hearing”). See also Peter Reuter, *Do No Harm: Sensible Goals for International Drug Policy*, *The American Interest* (Mar./Apr. 2009).

Congress and this Subcommittee have criticized this budget reporting format, and the Office of National Drug Control Policy Reauthorization Act of 2006 (2006 Reauthorization Act) made three statutory changes designed to mandate that ONDCP revert to a more inclusive budget.²⁸ In response to the 2006 Reauthorization Act, for FY 2009 ONDCP chose to account separately for many of the activities it previously excluded in a one-page appendix listing “Other Related Drug Control Funding.”²⁹ The Subcommittee has made clear to ONDCP that this separate accounting does not comply with the Reauthorization Act’s mandate. At the hearing, Mr. Carnevale and other experts agreed that even with the appendix, ONDCP’s practice of submitting a limited Budget Summary inadequately informs the public or policymakers about federal drug control expenditures. In response to the Subcommittee’s criticism, ONDCP convened a working group that has conducted a review of the federal drug budget to establish an accurate and reliable accounting of federal resources that are being spent on the drug control mission. It has provided intermittent reports to the Subcommittee on its progress.

On April 14, 2010, the Subcommittee held a second budget hearing assessing ONDCP’s 2011 National Drug Control Budget. The hearing examined whether the FY 2011 budget—the first National Drug Control Budget solely produced under the Obama administration and Director Gil Kerlikowske—reflected a balanced and evidence-based approach to national drug policy. To the Subcommittee’s disappointment, despite clear rhetorical shifts focusing more on demand side approaches to reducing drug use like prevention and treatment, the FY 2011 Budget continued to provide roughly twice as much money to fund interdiction, eradication, and law enforcement efforts as it allocated to fund treatment and prevention efforts.³⁰ The Subcommittee questioned these spending choices given the fact that, as counternarcotics expert Vanda Felbab-Brown of the Brookings Institute explained, “[s]upply-side measures, such as eradication of illicit crops and interdiction of transshipment, have not yet succeeded in disrupting the global supply of drugs in a lasting way.” In response, Director Kerlikowske acknowledged the limited effectiveness of supply reduction activities like interdiction because of the ability of the market to respond by moving production to other locations.

Nevertheless, the funding decisions within areas of treatment, prevention, and international counternarcotics at the program level showed encouraging signs that the new administration is formulating policy decisions based on evidence and science. Rosalie Pacula of the RAND Corporation applauded “increases in targeted treatment dollars for specific populations that are known to be heavy users and place a particularly large burden on society when left untreated, including the homeless, criminal offenders, and the veteran population.”³¹

²⁸ See H. Rept. 109–315, pt. 1, at 40. See also Pub. L. No. 109–469, 105(a).

²⁹ The 2006 Reauthorization Act was not enacted until the first quarter of FY 2007, after the FY 2008 Budget Summary had already been certified.

³⁰ National Drug Control Strategy FY 2011 Budget Summary, (online at www.whitehousedrugpolicy.gov/publications/policy/11budget/fy11budget.pdf).

³¹ Statement of Ms. Rosalie Pacula, Ph.D., Domestic Policy Subcommittee, Oversight and Government Reform Committee, *Hearing on ONDCP’s Fiscal Year 2011 National Drug Control*

b. Policy Priorities

The Subcommittee also held hearings on three key areas of national drug control policy. On June 23, 2010, the Subcommittee held a hearing to address the scientific evidence for treating drug addiction as a chronic, complex, biological, and psychological illness that is treatable with appropriate medications. The hearing explored the advances made in the development of medications and vaccines to combat drug addiction, how the federal government can partner with private industry to develop better medications and vaccines, and how medications can be better distributed to addicts through the health care, mental health, and criminal justice systems.

Mr. A. Thomas McLellan, the former Deputy Director of ONDCP and a leading scientist on drug addiction, discussed ONDCP's recent emphasis on improving healthcare screening for illegal and prescription drug abuse as a means to avoid the social harms and costly treatment needs that come with full-blown addiction.³² He and other witnesses testified to the need for drug addiction to be treated and funded on par with other diseases. Mr. McLellan and Dr. Nora D. Volkow, Director of the National Institute of Drug Abuse (NIDA),³³ testified regarding vaccines in development aimed at blocking the ability of consumed drugs to reach the brain and new medications already available for opioid, cocaine, and alcohol addiction, which help both in managing withdrawal symptoms and reducing cravings for drugs.

Yet despite these promising developments, the hearing revealed that there were many remaining obstacles to treating drug addiction as a disease and providing treatment to those drug users that need it. Mr. McLellan explained that substance abuse treatment centers were haphazardly distributed, underfunded, and insufficiently staffed, and that medication to combat addiction, even if sufficiently developed, was currently poorly disseminated.³⁴ In addition, the hearing addressed other barriers to medication-assisted treatment, including poor participation in research by pharmaceutical companies that "have traditionally shied away from medications development for illicit drug disorders because of a relatively small patient population who also tend to be in lower income brackets, lack health insurance, or rely on the State for their care,"³⁵ and the continuing stigmatization of drug addicts who are too often derided as morally deficient as opposed to being ill. There was some hope expressed that the recently enacted health care reform bill, by treating drug addiction on par with other diseases, will provide more economic incentives for private industry to develop medications. Nevertheless, the hearing echoed the Subcommittee's finding in its drug control and drug budget hearings that resources for demand reduction (and especially treatment) remain scarce relative to those allocated for supply control. The Sub-

Budget: Are We Still Funding the War on Drugs?, 111th Cong., 2nd Session (Apr. 14, 2010) (hereinafter "FY2011 Budget Hearing").

³² Statement of A. Thomas McLellan, Ph.D., Domestic Policy Subcommittee, Oversight and Government Reform Committee, *Hearing on Treating Addiction as a Disease: The Promise of Medication-Assisted Recovery*, 111th Cong., 2nd Session (Jun. 23, 2010) (hereinafter "Medication Assisted Recovery Hearing").

³³ Statement of Nora D. Volkow, M.D., Medication-Assisted Recovery Hearing.

³⁴ Statement of A. Thomas McLellan, Ph.D. Medication Assisted Recovery Hearing.

³⁵ Statement of A. Thomas McLellan, Ph.D. Medication-Assisted Recovery Hearing.

committee is continuing to engage these issues, and it has focused its inquiry on encouraging NIDA and FDA to incentivize and coordinate research and development of medications to combat addiction.

On July 21, 2010, the Subcommittee held a hearing on international supply reduction programs intended to stop the flow of illicit drugs into the United States, including illicit crop eradication and alternative development programs, interdiction efforts, and rule of law and criminal justice reform. The central policy question that the hearing confronted is why the billions of dollars of counternarcotics funding to nations that export cocaine and heroin to the U.S. have failed to make a significant dent in the domestic supply of these drugs. The short answer is that many of these initiatives, such as aerial crop eradication, have been ineffective or counterproductive. Moreover, the more recently implemented programs that have been productive, such as justice and rule of law initiatives and rural development, are extremely expensive and have only led to reductions in drug cultivation and production in individual nations, not in the overall international availability of these drugs. Because of the phenomenon known as the “balloon effect,” other countries with weaker governance systems and judicial systems have largely picked up the slack in production given constant domestic demand.

While recognizing that there are other foreign policy and national security goals that counternarcotics policy is intended to advance, the Subcommittee has found that the effort to shoehorn the disparate foreign policy goals of international counternarcotics policy into the framework of reducing domestic consumption has not been helpful in the presentation of an honest and accurate assessment of the costs and benefits of these strategies. Moreover, frank discussion of the alternate justifications for these policies is needed because funding for these programs cannot be justified on the basis of reducing domestic consumption—especially given the relative underfunding of more effective demand-side initiatives. The Subcommittee has continued to encourage ONDCP to develop a better set of metrics to judge the success of its overall international counternarcotics strategy as well as specific programs.

On July 22, 2010, the Subcommittee held its fifth and final drug-policy related hearing to focus on front-end alternatives to incarceration for drug-involved offenders. John Roman and Douglas B. Marlowe testified about research, including the recent National Institute of Justice-funded Multisite Adult Drug Court Evaluation (MADCE), that has demonstrated that drug treatment courts have been effective in reducing recidivism, reducing drug abuse, and improving other social outcomes.³⁶ There was broad agreement among hearing witnesses that drug courts should focus on—and drug court eligibility requirements should be changed to allow—the enrollment of more high-risk offenders, including offenders with more serious drug addictions and histories of criminal violence. Angela Hawken testified to promising results of the HOPE model of co-

³⁶ Statements of Mr. John Roman, Ph.D. and Mr. Douglas B. Marlowe, Ph.D., Domestic Policy Subcommittee, Oversight and Government Reform Committee, *Hearing on Quitting Hard Habits: Efforts to Expand and Improve Alternatives to Incarceration for Drug-Involved Offenders*, 111th Cong., 2nd Session (Jul. 21, 2010) (hereinafter “Alternatives to Incarceration Hearing”).

erced abstinence employed in Hawaii.³⁷ Under HOPE, a judicial mandate to arrestees to abstain from illicit drugs is enforced by swift and certain escalating sanctions for every positive drug test or missed probation appointment. The HOPE approach differs from drug courts in doing away with a formal clinical assessment of a client's drug treatment needs and the mandate for drug treatment for all participants. Witnesses also discussed the possibility of integrating a HOPE approach with drug courts, with perhaps the HOPE-like program at the front-end and drug courts reserved for participants who were not able to desist from drug use without more extensive treatment. The hearing also discussed Proposition 36, a referendum passed by California voters in 2000 that provided that in exchange for a guilty plea, first- and second-time drug possession arrestees with no record of violent offenses would be referred to treatment instead of subjected to prison. The legacy of this program is uncertain, in part because of insufficient independent research and limited state funding for the initiative.

The obstacles facing the implementation of better alternatives to incarceration reflect many of the challenges to improving federal drug policy that were revealed in the Subcommittee's four other hearings on drug policy. While the Subcommittee has been encouraged by signs that ONDCP has begun a shift from a criminal justice to a public health model for combating drug abuse, the reality is that many who need treatment for drug abuse do not receive it. While innovations like drug treatment courts and the HOPE approach allow for treatment in lieu of incarceration, draconian sentencing structures too often misapply public resources to incarcerating non-violent offenders. Finally, as reflected in the Subcommittee's four other hearings on drug policy, the rhetoric shift at ONDCP has yet to be adequately matched with a change in budgetary priorities. Treatment programs, both within and outside of the criminal justice system, remain underfunded despite social science establishing that expanding treatment to broader groups of drug users and offenders is cost-effective. ONDCP seems to recognize many of these flaws and has begun to evaluate innovations that are taking place in states and localities, yet substantial obstacles remain to the establishment of a cost-effective, evidence-based federal drug policy.

6. *Agriculture and Food Safety*

The Subcommittee held four hearings focusing on three areas: regulation of genetically engineered (GE) plants by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA); enforcement of the Humane Methods of Slaughter Act by the Food Safety and Inspection Service (FSIS) of USDA, and development of a national marketing agreement for packaged leafy green vegetables by the Agriculture Marketing Service (AMS).

a. APHIS and Regulation of Genetically Engineered Crops

The Subcommittee conducted its second and third hearings on regulation of genetically engineered plants by APHIS on July 28,

³⁷ Statement of Angela Hawken, Ph.D., Alternatives to Incarceration Hearing.

2010, and September 30, 2010.³⁸ These hearings concerned the agricultural crisis caused by the rapid evolution of herbicide-resistant weeds and APHIS's legal authority to address the crisis. In April 2010, the National Research Council (NRC) raised the alarm about the accelerating emergence of herbicide-resistant weeds, finding that in the last 10 years, eight or nine species of weeds have rapidly evolved resistance to the herbicide Roundup (glyphosate). The accelerating emergence of more species of Roundup-resistant weeds coincides with the widespread adoption of Roundup Ready crop systems since 1996.

The first report of the emerging crisis originated in Delaware in 2000, where glyphosate-resistant horseweed appeared in glyphosate-tolerant soybean fields. Herbicide-resistant horseweed, which can grow to seven feet in height, has now been discovered throughout the mid-Atlantic, Mississippi Delta, South, and Midwest. Since then, two varieties of pigweed, which can grow three inches per day and can destroy farm equipment, have evolved glyphosate resistance, imperiling cotton and soybean production in the Southeast and Midwest. Herbicide resistance has also been discovered in giant ragweed, primarily in soybean fields. The NRC report estimated that over four million acres of farmland through the Southeast and Midwest could be infested with glyphosate-resistant weeds.³⁹ Professor Mortensen at our July 2010 hearing testified that he estimates 10 to 11 million acres of farmland have become infested with glyphosate-resistant weeds. He also cited estimates by Syngenta and a scientist at Bayer that 38 million acres will be infested by 2013 and half of all weed species will be resistant to glyphosate by 2018, respectively. The effect of herbicide-resistant weeds on farming is very significant. Professor Mortensen estimated that farmers are now incurring an additional \$1 billion in costs to control glyphosate-resistant weeds. One Georgia cotton grower told a reporter that herbicide-resistant pigweed posed a lethal threat to cotton farming in Georgia, equating Roundup resistant pigweed to the boll weevil.⁴⁰

Over the past two decades, APHIS has deregulated more than 70 GE plant varieties.⁴¹ About 40 percent of GE crops were engineered for herbicide tolerance and about 25 percent for insect resistance.⁴² GE corn now accounts for 74 percent of all corn planted in the U.S. GE soybeans account for 91 percent of all soy grown in the U.S. and 87 percent of all cotton grown in the U.S. is GE.⁴³ Since the Subcommittee's 2008 hearing, APHIS deregulated three varieties of herbicide-resistant crop. At the current time, APHIS

³⁸The Subcommittee held its first hearing on the subject in the 110th Congress: *Hearing on Is USDA Accounting for Costs to Farmers Caused by Contamination from Genetically Engineered Plants?*, 110th Cong., 2nd Session (Mar. 13, 2008).

³⁹See National Research Council, *The Impact of Genetically Engineered Crops on Farm Sustainability in the United States* (Apr. 13, 2010) at 2-14.

⁴⁰See William Neuman and Andrew Pollack, *New York Times*, *Farmers Cope with Roundup-Resistant Weeds* (May 4, 2010) (online at www.nytimes.com/2010/05/04/business/energy-environment/04weed.html).

⁴¹Corn, soy, and cotton are the most frequently deregulated GE crops.

⁴²USDA, *Introduction of Genetically Engineered Organism, Draft Programmatic Environmental Impact Statement* (Jul. 2007) at 11.

⁴³USDA, Economic Research Service, *Adoption of Genetically Engineered Crops in the U.S.*, (online at www.ers.usda.gov/Data/BiotechCrops/).

lists 20 pending petitions for non-regulated status, of which nine concern herbicide-resistant crop varieties.⁴⁴

The Subcommittee's hearings focused on the USDA's narrow interpretation of its authority under the Plant Protection Act (PPA).⁴⁵ USDA maintains that it is powerless to regulate GE, herbicide-resistant crops in order to mitigate or prevent the spread of herbicide-resistant weeds. At our September 2010 hearing, for instance, the Deputy Under Secretary for Marketing and Regulatory Programs asserted that USDA's authority was limited to determination of whether or not the commercialization of a GE crop constituted a "plant pest" risk. However, the Subcommittee pointed out that such a narrow reading of the statute overlooked explicit authority to prevent the spread of noxious weeds. Specifically, section 412 of the PPA gives the Secretary authority to "prohibit or restrict . . . the movement . . . of any plant . . . if the Secretary determines that the prohibition or restriction is necessary to prevent . . . the dissemination of a . . . noxious weed within the United States."⁴⁶ Noxious weeds are defined as "any plant or plant product that can directly or indirectly injure or cause damage to crops . . . or other interest of agriculture . . . or the environment."⁴⁷ As Chairman Kucinich said at the hearing, a "plain reading of Section 412 gives the Secretary broad authority to restrict the use of Roundup-resistant crops if 'sound science' determines that those restrictions are necessary to prevent the spread of Roundup-resistant noxious weeds." Given the environmental and economic significance of the rapid evolution of Roundup-resistant weeds, the Subcommittee expressed displeasure at USDA's limited action to stem the spread of herbicide-resistant weeds and attributed that to USDA policy to ignore the authority plainly granted to it by statute.

b. FSIS and Enforcement of the Humane Methods of Slaughter Act

The Subcommittee conducted its second hearing into violations of federal law at slaughterhouses.⁴⁸ The Humane Methods of Slaughter Act (HMSA) established as public policy that "the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods."⁴⁹ HMSA and its implementing regulations specify standards for the slaughter of animals and for the treatment, handling, and disposition of non-ambulatory livestock intended for slaughter. Undercover video gathered by the Humane Society of the United States at slaughterhouses in California and Vermont depicted cruel treatment of

⁴⁴For instance, Monsanto is seeking to commercialize Dicamba-tolerant soybean, glyphosate-tolerant alfalfa and creeping bentgrass. Dow is seeking deregulation for 2,4 D & glufosinate-tolerant soybean and 2,4 D & ACCase-inhibitor-tolerant corn. Bayer has petitioned for deregulation of glyphosate & isoaxifluole-tolerant soybean and glufosinate-tolerant cotton. See www.aphis.usda.gov/biotechnology/not_reg.html (providing comprehensive list).

⁴⁵Pub. L. No. 106-224 (Jun. 20, 2000), codified at 7 U.S.C. § 7701 *et seq.* The Plant Protection Act streamlined many predecessor statutes, including the Plant Quarantine Act, the Federal Pest Act, and the Federal Noxious Weed Act.

⁴⁶7 U.S.C. § 7712.

⁴⁷7 U.S.C. § 7702.

⁴⁸The Subcommittee's first hearing on the subject was held in the 110th Congress: *Hearing on After the Beef Recall: Exploring Greater Transparency in the Meat Industry*, 110th Cong., 2nd Session (Apr. 17, 2008).

⁴⁹Pub. L. No. 95-445, 7 U.S.C. § 1901 *et seq.*

downed cattle and veal calves prior to slaughter, in violation of the law.

In our March 3, 2010, hearing, GAO reported that their survey of enforcement personnel at FSIS found persistent deficiencies, including inadequate numbers of enforcement personnel and inconsistent understanding by enforcement personnel about what constitutes a violation under HMSA and appropriate enforcement action when a violation is detected.

A key concern expressed by the Subcommittee regarded the USDA's treatment of whistleblowers. Under the previous administration, a top-ranking official at FSIS had corresponded with Chairman Kucinich to disparage the reputation of a federally employed public health veterinarian who had come forward to present evidence to the Subcommittee about systemic problems in federal enforcement efforts. The veterinarian had been transferred by USDA across the country after a large slaughterhouse where he worked had complained about his enforcement efforts. The USDA pursued a personnel action against him, which was resolved with his transfer to a Vermont veal calf facility that became the subject of a Humane Society video and subsequent criminal charges by the USDA against its operators. The video made clear that the facility's operators deliberately concealed animal abuse from this veterinarian, who they feared would take corrective actions against them. In fact, this veterinarian did take a number of corrective actions, only to have them overturned by superiors in the USDA's district office. In preparation for the March hearing, the Subcommittee expressed its interest in having the USDA retract the unsubstantiated charges made against this veterinarian in the USDA's letter to the Chairman. At the hearing, the Chairman pushed the USDA to take steps necessary to restore the individual's professional reputation. The Subcommittee reasoned that a new administration at FSIS could signal its intention to renew enforcement efforts by redressing this matter. The USDA agreed to conduct an internal investigation.

c. AMS and the Proposed Leafy Green Marketing Agreement

The Subcommittee held its first hearing on the regulation of pre-cut, packaged leafy greens marketed as Ready to Eat on July 29, 2009. The Subcommittee focused on the role of private industry and government, namely USDA's Agriculture Marketing Service (AMS), in regulating these products, and the economic, environmental, and food safety impacts of such regulation.

Ready to Eat salad vegetables have become increasingly popular, capturing 70 percent of the domestic leafy greens market. Americans appreciate the convenience of this partially processed product and are eating more fresh produce as a result. That is a good and important development and will likely help to improve the health of Americans.

However, as the popularity of bagged lettuce has increased, so has the rate of serious food-borne illnesses associated with it.⁵⁰ Outbreaks of *E. coli* 0157:H7 and leafy green recalls have occurred

⁵⁰ World Health Organization, *Food borne disease outbreaks: Guidelines for investigations and control, Special Report*, Geneva (2008).

at least once a year almost every year since 2003, with multiple outbreaks in 1999, 2003, 2006, 2007, and 2008.

Responsibility to prevent these outbreaks rests in the hands of the industry. After legislators in California drafted strict, mandatory measures,⁵¹ processors relied on provisions of a 1937 federal law to develop a voluntary marketing agreement, known as the California Leafy Greens Handlers Marketing Agreement (CALGMA).⁵² Typically used for assessing the size, weight, color, and grade of agricultural products, marketing agreements and orders are traditionally overseen by AMS.⁵³ CALGMA differs from typical marketing agreements, however; it explicitly addresses food safety. CALGMA, as well as its national counterpart, the proposed National Marketing Agreement Regulating Leafy Green Vegetables, address safety and quality issues by implementing and ensuring adherence to a specified set of Good Agricultural Practices (GAPs) in an effort to improve the safety of leafy greens. CALGMA includes a full-blown food safety inspection program, conducted by the USDA, which monitors wildlife activity, farm sanitation, watering, fertilizing and harvesting practices, with the goal of preventing *E. coli*.⁵⁴ CALGMA's influence has not been confined to California; national processing and retailing outlets, which buy and market produce from growers all over the country, impose CALGMA requirements on all growers.

The Subcommittee expressed concern, however, about deficiencies in CALGMA and the proposed national marketing agreement. For instance, CALGMA is silent on the use of certain packaging used for Ready to Eat produce, known as Modified Atmosphere Packaging. These are the bags containing ready to eat greens. That omission is significant, since the packaging itself can act like a greenhouse—a perfect habitat for bacterial growth—if bagged produce is not constantly refrigerated during the distribution chain. Moreover, CALGMA requires neither an enforceable standard for a cold chain of distribution nor tough requirements on packagers and distributors relating to the “Best Consumed By Date” stamped on Ready to Eat packaging. Finally, CALGMA condones a processing activity, favored by the Ready to Eat processing industry, known as “coring” lettuce in the field, and only suggests minimal guidelines for sanitary treatment of harvest equipment used for “coring.” This practice is inadequate to protect public health because recent scientific research has identified the potential for transferring pathogens deep into the cored lettuce, where the subsequent washing process would be unable to reach.

The Subcommittee also expressed concerns about certain requirements imposed on growers. Some of CALGMA's standards or “metrics” are in direct conflict with environmental protection and widely accepted agricultural practices. In some cases, streams have been contaminated, wildlife refuges destroyed, and biodiversity

⁵¹ Elizabeth Weise, “Growers pursue safety program for leafy green vegetables after *E. Coli* scares,” *USA Today* (Jan. 25, 2007) (online at www.usatoday.com/money/industries/food/2007-01-25-safety-program_x.htm).

⁵² Geoffrey S. Becker, “Food safety on the farm: Federal programs and selected proposals,” Special Report on Agriculture, Congressional Research Service, (Apr. 6, 2009) (online at www.ncsu.edu/fvsi/ncfreshproduce/documents/AFB2foodsafety09b%200414.pdf).

⁵³ *Marketing Orders and Agreements*, USDA National Agricultural Library, (online at agclass.nal.usda.gov/agt/mtwdk.exe?k=default&l=60&w=5389&n=1&s=5&t=2).

⁵⁴ See appendix, “LGMA Unannounced Observational Audit Checklist” for a detailed list of audit requirements.

threatened by farmers' efforts to remain in compliance with CALGMA metrics. Small and organic farmers in particular have expressed concern about the costs and scientific justification for some of CALGMA's requirements.

7. *Environmental Protection*

The Subcommittee held one hearing on the topic of mercury discharges from dental offices, which is the largest source of mercury in municipal wastewater and sludge. Our engagement with the U.S. Environmental Protection Agency (EPA) led the agency to issue notice of mandatory control technology standards for dentist offices in 2010.

The Subcommittee began its oversight of the environmental effects of dental mercury amalgam in response to a request from Subcommittee member Representative Diane E. Watson in 2007. The Subcommittee's work in this area concerned two themes: EPA's estimate of the magnitude of environmental impact of dental mercury, and state and local statutory and regulatory approaches to prevent dental mercury discharge into the environment.⁵⁵ Since the Subcommittee's 2008 hearing, a number of developments at EPA merited continued oversight by the Subcommittee: (1) EPA entered into a voluntary Memorandum of Understanding on Reducing Dental Amalgam Discharges (MOU) with the American Dental Association (ADA) and the National Association of Clean Water Agencies (NACWA); (2) EPA issued new effluent guidelines that specifically exempted dentist offices; and (3) EPA began to update and improve its emissions factors procedures during the fall of 2009 and spring of 2010.

On May 26, 2010, the Subcommittee held its third hearing on this topic. The hearing focused on deficiencies in the MOU, which, in the opinion of the Subcommittee, ignored lessons learned from state and local efforts to encourage dentists to adopt technology to prevent mercury discharge into wastewater. Concluded in the last days of the Bush administration, the MOU is a voluntary program. While the signatories are obligated to perform certain agreed-upon tasks, the MOU does not require dentists to take any actions at all. Moreover, the MOU process is closed; only the signatories to the MOU have been permitted to attend meetings or otherwise participate in the implementation of the MOU. Many stakeholders have therefore been excluded. Two of those stakeholders, state environmental directors and the Mercury Policy Project, testified at the hearing.

The MOU established two milestones: (1) within six months of signing, ADA was expected to produce a "baseline report estimating the current level of amalgam separator usage at the national and state level"; and (2) within one year of signing, the signatories were expected to establish interim goals of increasing the use of amalgam separators within a reasonable period of time.⁵⁶ However, as of the time of the hearing, about one and one-half years after the MOU's execution, the baseline report did not exist, and goals for

⁵⁵ The Subcommittee held two hearings on the topic in the 110th Congress. They were: *Hearing on Environmental Risks of and Regulatory Response to Mercury Dental Fillings*, 110th Cong., 1st Session (Nov. 14, 2007) and *Hearing on Assessing State and Local Regulations to Reduce Dental Mercury Emissions*, 110th Cong., 2nd Session (Jul. 8, 2008).

⁵⁶ Memorandum of Understanding on Reducing Dental Amalgam Discharges, effective December 29, 2008 at 4.

increasing separator usage were not finalized. While ADA did make an effort to fulfill its obligation and did submit data in a timely manner, none of the MOU signatories were satisfied with the quality of the data. Consequently, EPA assumed responsibility for creating the baseline, and it has engaged mercury amalgam separator manufacturers in discussions about obtaining sales data directly from them. In parallel, EPA developed a tentative goal of a 20 percent first-year increase and a 25 percent second-year increase in adoption of mercury separators by general dentists in states without any relevant regulations or with voluntary regulations.

The MOU was created in lieu of a mandatory standard. In 2008, EPA issued new effluent guidelines for new and existing industrial pollution dischargers into surface waters and into publicly owned treatment works. But EPA decided to exclude dental offices from the scope of the 2008 guidelines. The decision to exclude dental offices was based on the argument, advanced by the ADA and previously endorsed by EPA, that dental offices were demonstrating “significant progress through voluntary efforts.” However, other stakeholders disagreed with the assessment. State and local environmental officials, known as the Quicksilver Caucus, registered their opposition to excluding dental offices on those grounds. The Quicksilver Caucus took the position that “voluntary efforts to reduce hazards associated with dental mercury amalgam have not resulted in reductions by a majority of dental offices.”⁵⁷

The Subcommittee’s 2010 hearing focused on the failure of the MOU’s purely voluntary scheme to meet the MOU goals, considered what lessons could be learned from the overall history of state and local efforts to regulate dentists’ behavior, and urged the EPA to re-evaluate the voluntary approach based on how dentist compliance rates compared to the MOU goals. As the Subcommittee concluded in a report on the subject in 2008, experience with voluntary programs from state and local government reveals that they “helped to raise awareness about the issue but typically did not achieve their desired compliance goals,” and that, “[a]s a result [state and local] governments ultimately switched to a mandatory programs.”⁵⁸ In September 2010, EPA announced that it would change course and issue a mandatory effluent guideline on mercury discharge by dentist offices. Dentists will now be required to adopt available technology to prevent the pollution of wastewater with dental mercury.

8. Health

The Subcommittee held three health-related hearings. Two hearings concerned the bureaucratic nature of private health insurance companies and the motives and means they employ to deny coverage to their customers. A third hearing provided a status report of reforms undertaken by the Obama administration in pediatric dental Medicaid policy.

⁵⁷ Letter from Mark McDermid, on behalf of the Quicksilver Caucus, to EPA (Mar. 31, 2010).

⁵⁸ Domestic Policy Subcommittee, Oversight and Government Reform Committee, Staff Report on *Reducing Dental Mercury Emissions: Installing Amalgam Separators and Achieving Compliance* 110th Cong. (Sep. 10, 2008).

a. Insurance Company Bureaucracy

In the fall of 2009, as Congress headed into the final stages of a debate on health care overhaul legislation, the Subcommittee undertook a two-day examination of the private health insurance industry. The Subcommittee felt that a significant dimension of health care had received scant attention: how the administration of private health insurance operates, or how the bureaucracies of private health insurance companies intervene between patients and doctors, exerting real influence over health outcomes.

The state regulatory record and civil litigation dockets are replete with recent findings of wrongful denial and delay of health care by private health insurance companies. For instance, in 2008, PacifiCare, a subsidiary of UnitedHealthcare, paid a \$3.5 million fine, \$25 million in waived premiums and reimbursements of medical expenses, and restored health care to nearly 1,000 patients to resolve violations of California law, including wrongful denial of 130,000 claims, incorrect payment of claims, failure to acknowledge receipt of claims in a timely manner, and multiple requests for documentation already provided. In another instance, UnitedHealthcare paid a \$20 million fine to settle a lawsuit brought by the state insurance commissioners of Arkansas, Connecticut, Florida, Iowa, and New York for violating claims-handling and other state administrative practices. In 2007, Aetna paid a \$9.5 million fine for illegally refusing to cover services rendered appropriately, including emergency services, by “out-of-network” health care providers in New Jersey. In 2008, Blue Cross Blue Shield of Texas (a division of Health Care Service Corporation) was fined the equivalent of over \$4 million for failing to make non-preferred benefits available to its enrollees and for failing to maintain an accurate listing of preferred providers.⁵⁹ Similar regulatory actions exist for nearly every insurer.

The numbers of violations discovered by state regulatory actions and cases from civil litigation demonstrate the extent to which the bureaucratic actions of private health insurers interfere with the provision of medical care. One technique used to avoid paying for medical care is the selective use of scientific studies for determining appropriate standards of care and creating definitions of “experimental” and “investigational,” categories of treatment that private insurers do not reimburse. In 2002, the Ohio Supreme Court upheld the largest award in Ohio history, awarding \$30 million in punitive damages against Anthem Ohio (a subsidiary of WellPoint) for the denial of appropriate chemotherapy treatment to Esther Dardinger for her brain cancer.⁶⁰ In its decision, the court pointed to Anthem’s changing rationales and dilatory procedures that resulted in denying Dardinger’s treatment regime. The court agreed with the trial court jury that, “a pervasive corporate attitude existed with [Anthem/AICI] to place profit over patients,” stating that “Anthem had worn them down as surely as the cancer had. Like cancer, Anthem relentlessly followed its own course,

⁵⁹ David Balto, Center for American Progress, *Actions for Deceptive and Anticompetitive Practices Against Insurance Companies* (document on file with Subcommittee).

⁶⁰ *Dardinger v. Anthem Blue Cross & Blue Shield*, 98 Ohio St. 3d 77, 79–80 (Ohio 2002).

uncaring, oblivious to what it destroyed, seeking only to have its way.”⁶¹

Regulatory actions and jury awards do not, however, give a definitive perspective on the frequency of insurance-company delays and denials of care. Both metrics are conservative because they consist only of instances in which insurers were caught and punished for a violation. The research arm of the California Nurses Association published results of its analysis of claims payment data maintained by the California Department of Managed Health Care. It found that claims denials by health insurers operating in California averaged 21 percent from 2002 to June 2009.⁶²

Delaying and denying legitimate claims may be intimately related to insurance company profits. Financial analysts of the health insurance industry carefully chart the Medical Loss Ratio (MLR), the amount of each dollar received in premiums that is spent on medical expenses. Investors consider MLR to be a key indicator of an insurer’s ability to control its spending on health care, and thereby a predictor of profitability. According to a former executive of one of the nation’s largest for-profit insurers, “[I]nvestors want that [MLR] to keep shrinking. And if they see that an insurance company has not done what they think meets their expectations with the medical loss ratio, they’ll punish them. Investors will start leaving in droves. I’ve seen a company stock price fall 20 percent in a single day, when it did not meet Wall Street’s expectations with this medical loss ratio.”⁶³

Notably, during a period in which the rate of increase in medical costs exceeded overall inflation, the top 10 health insurers have been able to hold their MLR nearly constant, at around 83 percent.⁶⁴ Because the business of health insurers is to pay medical costs, the only ways available to insurers to hold down MLR under inflationary circumstances are: (1) to pay fewer claims; (2) to pay a smaller share of claims; (3) to avoid paying claims that are most susceptible to price inflation; (4) to raise premiums; or (5) to employ a combination of some or all of the preceding techniques.

The Subcommittee’s two-day hearing considered a broad range of techniques used by the private health insurance industry to keep their MLRs down. Those techniques include the use of triggers in the claims processing system to delay claims payment and the use of divergent standards of “medical necessity” by insurers and their disease-specific subcontractors. Still others occur before medical treatment is rendered, such as prior authorization and referral requirements that can be used to dissuade physicians from giving the care they believe is appropriate for the individual. Individuals with personal stories, physicians with their own stories and perspectives, and a former health insurance company senior executive who was responsible for a major company’s public relations testified on the first day of the hearing. On the second day of the hearing, testimony was taken from top-level executives from the nation’s largest for-profit and non-profit health insurers.

⁶¹*Id.* at 100.

⁶²“State HMOs Deny 1 in 5 Claims, Analysis Shows,” *Los Angeles Times*, (Sep. 3, 2009).

⁶³Wendell Potter on *Bill Moyers Journal*, (PBS television broadcast, Jul. 10, 2009).

⁶⁴PricewaterhouseCoopers Health Research Institute, *Beyond the Soundbite* (Nov. 2007) at 39, (online at pwchealth.com/cgi-local/hregister.cgi?link=reg/soundbite.pdf).

b. Medicaid Pediatric Dentistry

The Subcommittee also held a hearing on the Obama administration's reform of pediatric dentistry under the Medicaid program. This was our fourth hearing on the topic.⁶⁵ The Subcommittee's engagement on this topic began after February 25, 2007, when Deamonte Driver, a 12-year-old boy from Prince George's County, Maryland, died of a brain infection precipitated by an untreated abscess in his mouth. Deamonte was Medicaid-eligible and enrolled in a health insurance plan. Later that week, six-year-old Alex Callender of Harrison County, Mississippi, also died as the result of an oral infection. If Deamonte had been given an opportunity to visit a dentist and receive care, his death might have been avoided; however, a team of people that included his mother, a lawyer, an online help supervisor, and three case managers could not find a dental provider in the managed care organization that was responsible for Deamonte's care.

Over the course of the Subcommittee's investigation and several hearings, we uncovered serious deficiencies in federal oversight at the Centers for Medicaid and Medicare Services (CMS) that resulted in the failure to monitor adequately Maryland's state Medicaid system. Maryland failed in its statutory responsibility to ensure availability of and access to required health care resources, as well as to help Medicaid beneficiaries and their families access those resources. The private health insurer also failed. UnitedHealthcare, the managed care organization in which Deamonte was enrolled at the time of his death, also had enrolled nearly 11,000 Medicaid-eligible children in Maryland who, like Deamonte, had not seen a dentist in the previous four or more consecutive years. Further, only seven dentists provided 55 percent of total services to UnitedHealthcare beneficiaries in Prince George's County. Thus, the Subcommittee concluded that UnitedHealthcare's dental provider network was totally deficient.⁶⁶

The Subcommittee pushed CMS to reform its oversight and administration of Medicaid with respect to pediatric dental care. The director of Medicaid services under the Bush administration resigned, and the pace of reform quickened. At our October 2009 hearing, GAO reported that progress had been made in rates of Medicaid usage, but that the magnitude of the increase was small. Indeed, the previous administration's goal of 66 percent dental usage is far from being achieved: only 35 percent of enrollees received dental care. The new administration continued and expanded pediatric dental care reforms, including improving reporting forms, tightening oversight for underperforming states, and expanding sharing best practices information among the states. Cynthia Mann, the Obama administration's new director of Center for Medicaid State Operations, testified that the reforms that had occurred since Deamonte's death were "triggered in large part by the activity of this committee and by your interest in this area and

⁶⁵ Earlier hearings occurred in the 110th Congress. They were: *Hearing on Evaluating Pediatric Dental Care under Medicaid*, 110th Cong., 1st Session (May 2, 2007); *Hearing on One Year Later: Medicaid's Response to the Systemic Problems Revealed by the Death of Deamonte Driver*, 110th Cong., 2nd Session (Feb. 14, 2008); and *Hearing on Necessary Reform of Dental Care in Medicaid*, 110th Cong., 2nd Session (Sep. 23, 2008).

⁶⁶ Letter from Chairman Dennis J. Kucinich to UnitedHealthCare and Maryland Department of Health and Mental Hygiene (Oct. 2, 2007).

that you have been able to plant the seeds for a renewed commitment on this very important matter.”⁶⁷

c. Research and Development for Treatment of Brain Disorders

At the request of Representative Patrick J. Kennedy, on September 29, 2010, the Subcommittee held a hearing addressing the current state of neuroscience research and efforts to expand knowledge and treatments to help individuals afflicted with neurologic and mental health disorders, especially veterans and military personnel.⁶⁸ The hearings also assessed current collaborations within the field of neuroscience to advance these goals and explored how government, industry, and academia can most effectively advance neuroscience research and the development of new treatments.

The hearing brought together leaders from several key agencies engaged in neuroscience research, including the National Institute of Mental Health (NIMH), the National Institute for Neurological Disorders and Stroke (NINDS), the Department of Defense (DOD), and the U.S. Department of Veterans Affairs (VA). Witnesses from these agencies each spoke in detail about their agency’s neuroscience initiatives, many of which involve interagency projects with interdisciplinary approaches and extensive coordination with civilian and non-governmental entities. These interagency partnerships are critical to advancing discoveries to cure brain disorders and illnesses.

The hearing also addressed another critical challenge to advancing neuroscience development: loss of the pharmaceutical industry investment in the development of central nervous system medications. The modern drug development process has become extraordinarily costly and risky. It has been estimated that only 1 of every 10,000 new drug candidates succeeds, and moving from initial discovery to full commercialization is very expensive.⁶⁹ This is especially true for drug development for central nervous system disorders. As a result, there has been a recent and disturbing trend for pharmaceutical companies that previously invested heavily in the neuroscience field to cut back on drug development for nervous system disorders. This year, both GlaxoSmithKline and AstraZeneca have ended research and development of their psychiatric medications.⁷⁰ Multiple reasons have been cited for the loss of interest, including the high cost, high risk, and decreased opportunities for pharmaceutical companies to recoup their investments and make profits. Because of these private industry cutbacks, voluntary health organizations (non-profit charitable organizations, patient advocacy groups, and private foundations) have become a critical funding and research source for brain and nervous system disorders. The hearing also focused on the importance of collabora-

⁶⁷Testimony of Cynthia Mann, Domestic Policy Subcommittee, Oversight and Government Reform Committee, *Hearing on Medicaid’s Efforts to Reform Since the Preventable Death of Deamonte Driver: A Progress Report*, 111th Cong. 1st Session (Oct. 7, 2009) at 22.

⁶⁸*Hearing on From Molecules to Minds: The Future of Neuroscience Research & Development*, 111th Cong. 2nd Session (Sep. 29, 2010).

⁶⁹*Venture Philanthropy Strategies to Support Translational Research: Workshop Summary*. The Institute of Medicine Forum on Neuroscience and Nervous System Disorders (2009), available at books.nap.edu/openbook.php?record_id=12558&page=54.

⁷⁰Greg Miller, *Is Pharma Running Out of Brainy Ideas?*, Science Magazine (Jul. 30, 2010), (online at www.sciencemag.org); See also Andrew A. Nierenberg, *The Perfect Storm: CNS Drug Development in Trouble*, CNS Spectrums: The International Journal of Neuropsychiatric Medicine.

tion and data sharing across the public and private sectors to advance treatments and cures of brain disorders and diseases. Several witnesses discussed the Alzheimer's Disease Neuroimaging Initiative (ADNI), a collaborative effort led by a team of scientists and executives from NIH, the FDA, the drug and medical-imaging industries, universities, and nonprofit groups.⁷¹ The ADNI collaborative framework is now serving as a model for similar efforts against Parkinson's disease and other neurologic diseases and disorders.

9. Labor

The Subcommittee held two hearings and worked directly with the Department of Labor (DOL) on key labor rights issues. After the Subcommittee investigated, advocated, and held a hearing on the need to improve protections for non-agricultural guest workers, DOL announced in April 2010 that it would review regulations and propose changes to address the insufficient worker protections in the current program. Also, after the Subcommittee held a hearing exposing the flaws of the current workers compensation program for civilian contractors injured while employed in Iraq and Afghanistan, DOL acknowledged the program's shortcomings and is currently engaged in an interagency process to recommend reforms through amendment of the Defense Base Act.

a. Foreign Nonagricultural Guest Worker Program

On April 23, 2009, the Subcommittee held its third hearing on the rights of non-agricultural guestworkers who come to work in the United States lawfully through the H-2B visa program.⁷² In the aftermath of Hurricanes Katrina and Rita, the Subcommittee began an investigation into the adequacy of DOL's enforcement of labor laws in New Orleans. The Subcommittee discovered that H-2B visa holders, or non-agricultural guestworkers, had been exposed to egregious forms of abuse by sponsoring employers during the Gulf Coast cleanup. The Subcommittee continued its investigation during this Congress and found that the problems that it identified in New Orleans—while compounded by the temporary suspension of labor laws and the influx of labor from neighboring states and countries after the Hurricanes—were representative of the abusive practices that were occurring in the H-2B guestworker program across the country.

The Subcommittee's investigation revealed that for years, because of a loophole in the previous H-2B regulation, neither the DOL nor the Department of Homeland Security (DHS) had been protecting the rights of H-2B guestworkers, leaving them vulnerable to egregious exploitation. The Subcommittee advocated for closure of the loophole. A new regulation enacted in December 2008 officially granted authority to DOL to establish an enforcement

⁷¹Gina Kolata, "Sharing of Data Leads to Progress on Alzheimer's", *The New York Times*, Aug. 12, 2010.

⁷²The Subcommittee's two previous hearings were: *Hearing on The Adequacy of Labor Law Enforcement in New Orleans*, 110th Cong., 1st Session (Jun. 19, 2007); and *Hearing on Evaluating the Labor Department in New Orleans: DOL's Performance in Investigating and Prosecuting Wage and Hour Violations and Protecting Guestworkers*, 110th Cong., 1st Session (Oct. 24, 2007).

process to investigate compliance with the H-2B requirements and to remedy violations by imposing fines or debarment.⁷³

The April 2009 hearing focused on how DOL intended to oversee the guestworker program, and whether DOL's 2010 Budget prioritized enforcing guestworker rights and reflected a commitment to investigating and prosecuting H-2B sponsoring employers who are abusing the program and exploiting workers. It also addressed the inherent flaws of the H-2B program, which left guestworkers vulnerable to exploitation by sponsoring employers, and how the 2008 regulation exacerbated some of these problems.

During the hearing, three former guestworkers testified about their experiences coming to the U.S. through the H-2B visa program. They recounted stories of being cheated out of wages, being placed in jobs that they had not contracted to work, sitting around for weeks with no work while their debt continued to rise, and being intimidated by their employers. The witnesses explained how H-2B workers are particularly vulnerable to abuse because they take on so much debt to obtain jobs in the U.S. and because they are dependent on their H-2B employer to stay in the U.S. These debts keep many guestworkers from demanding their rights because they fear being deported back to their home country with debts they cannot repay.⁷⁴

The guestworkers also testified that the DOL had offered little, if any, assistance in their struggles. One guestworker testified at the hearing that he, like a vast majority of guestworkers, did not know about DOL or the existence of any U.S. government agency charged with enforcing workers' rights.⁷⁵ Three leading experts in workplace justice and immigrant rights corroborated that the experiences recounted by the guestworkers at the hearing were not aberrations, but rather symptomatic of the systemic flaws in the H-2B program and DOL's past failure to ensure that H-2B employers complied with the law.⁷⁶

Based on the findings of its investigation and testimony provided at the hearing, the Subcommittee sent a letter to Hilda Solis, Secretary of Labor, outlining 28 specific recommendations to DOL geared toward enhancing DOL's enforcement capacity through improved investigation practices, record keeping, and collaboration with other organizations and the guestworker community. The Subcommittee has been working closely with the DOL on achieving many of these reforms.

The Subcommittee also advocated for DOL to immediately end its policy of allowing employers to deduct travel, visa, and recruitment costs from guestworker wages where such deduction brought guestworkers wages below the minimum wage. This policy clearly violated the Fair Labor Standards Act (FLSA), as recognized in *Arriaga v. Florida Pacific Farms*, 305 F.3d 1228 (11th Cir. 2002).

⁷³U.S. Department of Labor, Employment and Training Administration, *Labor Certification Process and Enforcement for Temporary Employment in Occupations Other Than Agriculture or Registered Nursing*, 73 Fed. Reg. 78019-78069 (Dec. 19, 2008); U.S. Department of Homeland Security U.S. Citizenship and Immigration Services, *Changes to Requirements Affecting H-2B Nonimmigrants and Their Employers*, 73 Fed. Reg. 78103 (Dec. 19, 2008).

⁷⁴See Testimony of Karickathara Raju, Miguel Angel Jovel Lopez, and Daniel Castellanos-Contreras, Domestic Policy Subcommittee, House Committee on Oversight and Government Reform, *Hearing on The H-2B Guestworker Program and Improving the Department of Labor's Enforcement of the Rights of Guestworkers*, 111th Cong., 1st Session (Apr. 23, 2009) (hereinafter "April 2009 Hearing").

⁷⁵April 2009 Hearing Tr. at 22.

⁷⁶See April 2009 Hearing Tr. at 61.

On August 21, 2009, the Wage and Hour Division of DOL issued a Field Assistance Bulletin changing its policy, instructing that employers are responsible for paying the transportation and visa expenses of H-2B employees where shifting these costs to employees would effectively bring their wages below the FLSA minimum wage in their first workweek of employment.

The letter also outlined the Subcommittee's belief that the 2008 regulation was harmful to guestworkers and U.S. workers alike because it reduced oversight of the H-2B application and certification process, and urged DOL to begin a rulemaking process for new H-2B regulations. As one expert explained at the hearing, "The reduction in oversight will increase likelihood that U.S. workers will be passed over for available jobs, and that vulnerable immigrant workers will suffer unremedied exploitation."⁷⁷ In April 2010, the Secretary of Labor acknowledged that there are insufficient worker protections in the current program and announced that as part of its semiannual agenda for regulations, the DOL would review regulations pertaining to the H-2B guestworker program.

On October 4, 2010, the DOL issued the first of two Notice of Proposed Rulemakers (NPRMs) on the H-2B guestworker program to ensure that both U.S. and foreign workers are protected from unfair employment practices. The first NPRM proposes changes to the methodology for setting prevailing wages for certification under this program. The proposed new wage rate methodology is actually a return to the principles that determined prevailing wage rates for temporary non-agricultural workers for more than 30 years from 1967 until 1998, and will help ensure that temporary worker programs do not depress the wages and working conditions of workers in the United States as the current regulation does. The Subcommittee submitted comments reflecting its support for DOL's proposed rulemaking.

The Subcommittee also continues its oversight of DOL to ensure that adequate resources and attention are devoted to enforcing the labor rights of both U.S. and foreign workers.

b. Civilian Contractor Workers Compensation

The Defense Base Act (DBA) requires that all U.S. government contractors and subcontractors secure workers' compensation insurance for their employees working overseas. Like all workers' compensation systems, the DBA provides no-fault coverage and is an exclusive remedy to injured workers. Injured workers covered by the DBA are entitled to full medical benefits to treat their injuries and cash disability benefits to replace a portion of their lost wages. Taxpayers pay the premiums, which are incorporated in contract costs. The government also reimburses insurance carriers in full for combat-related injuries and deaths.⁷⁸ While DBA insurance is provided by private insurance companies, the program is administered by DOL's Office of Workers' Compensation Programs (OWCP), Division of Longshore and Harbor Workers' Compensation. DOL is di-

⁷⁷ See Written Testimony of Mary Bauer, April 2009 Hearing at 13–14.

⁷⁸ Valerie Bailey Grasso et. al, Congressional Research Service, *The Defense Base Act (DBA): The Federally Mandated Workers' Compensation System*, RL34670 at 9 (Oct. 20, 2008) (hereinafter "CRS DBA Report").

rected to “ensur[e] that workers’ compensation benefits are provided for covered employees promptly and correctly.”⁷⁹

The DBA program was enacted in 1941, when the U.S. military made sparing use of civilian contractors. When the U.S. invaded Afghanistan in 2001 and Iraq in 2003, the number of civilian contractors sent overseas to support the war effort skyrocketed: they guard bases, drive supply trucks, cook meals, and do other work once done by soldiers. These civilians, who include Americans and foreign nationals, are currently working in Iraq and Afghanistan in numbers exceeding U.S. troops.⁸⁰ In 2008 alone, there were 200,000 contractors in the war zone.⁸¹ As of June 2008, more than 1,350 civilian contractor personnel have died in Iraq and Afghanistan. Approximately 29,000 contractors had been injured, more than 8,300 seriously.⁸² The growth in the use of contractors and their rate of injuries has spurred a corresponding increase in DBA workers’ compensation claims, with the caseload expanding more than six-fold between 2004 and 2007. The DBA workers’ compensation claims caseload peaked in 2007, while the average amount of compensation and medical benefits paid per claim in 2007 dropped to its lowest level since 2003.⁸³

At the request of Subcommittee member Representative Elijah E. Cummings, the Subcommittee held a hearing on the issue on June 18, 2009. Hearing testimony revealed many cases where civilian contractors returning from war seriously injured or struggling with psychological trauma had to fight insurers for months and sometimes years to receive basic medical care. One civilian contractor who was injured in a shooting in Iraq explained at the hearing that he struggled to persuade AIG to approve treatment for post-traumatic stress syndrome. As he described his experience, he turned to the insurance executives on the panel explaining, “We’re not asking for millions in bonuses or lavish parties or even parades. . . . We want what we’re entitled to.”

Under the current system, insurance carriers have an incentive to deny claims until ordered to pay by an Administrative Law Judge (ALJ). At the hearing, an attorney who has represented thousands of civilian contractors in DBA cases estimated that 80 percent of his cases are litigated and only 10 percent settle prior to the hearing before the ALJ. While DOL is ostensibly the program administrator, apart from its role as monitor and technical assistant, the DBA grants insufficient authority to DOL to enable it to ensure that the benefits claims process functions fairly and expeditiously. For example, DOL has no enforcement authority to make insurance carriers pay claims when they are disputed; they can only recommend action. While DOL can impose civil fines if an employer fails to secure the payment of compensation when

⁷⁹ U.S. Department of Labor, *The Defense Base Act*, December 2003, (online at www.dol.gov/esa/owcp/dlhwc/ExplainingDBA.pdf).

⁸⁰ T. Christian Miller, “Contractors Outnumber Troops in Iraq,” *Los Angeles Times* (Jul. 4, 2007), (online at articles.latimes.com/2007/jul/04/nation/na-private4).

⁸¹ T. Christian Miller and Doug Smith, “Injured War Zone Contractors Fight to Get Care from AIG and Other Insurers,” *ProPublica* (Apr. 16, 2009), (online at www.propublica.org/feature/injured-war-zone-contractors-fight-to-get-care-from-CNA-416).

⁸² Steven Schooner, “Remember Them Too: Don’t Contractors Count When We Calculate the Costs of War?” *The Washington Post* (May 25, 2009), (online at www.washingtonpost.com/wp-dyn/content/article/2009/05/24/AR2009052401994.html).

⁸³ CRS DBA Report.

deemed required, the Subcommittee's investigation revealed that DOL used this power sparingly under the previous administration.

The Subcommittee also found that DOL's limited resources prevented it from exercising the limited authority granted to it under the DBA. DOL has been hindered by lack of staff and updated technology to be able to oversee the growing program. Staffing levels at DOL devoted to the administration of DBA claims have actually dropped since 2000 despite the explosion of DBA claims. DOL's data collection system is also extremely outdated and unreliable. The Subcommittee found that the database produced unintelligible data as a result of company names not being standardized and incomplete data fields. At the time of the hearing, DOL was still using 3" x 5" index cards to keep track of insurance carriers. OWCP's requests for increased funding for technology upgrades and staffing were declined under the previous administration.

As a result of the Subcommittee hearing, the DOL focused energy and resources to improving its oversight and administration of the current program. DOL has reported to the Subcommittee that it has made many internal improvements to improve efficacy as the Subcommittee requested, such as creating a method for insurers to report policy information electronically and discontinuing use of index cards for recordkeeping. DOL has also enhanced compliance assistance efforts, including implementing performance measures that are reported publicly and accelerating application of meaningful civil penalties for willful failure to file timely reports. DOL's increased attention to employer and carrier performance has brought about improved compliance. The Assistant Secretary of Labor also acknowledged at the hearing that there are serious flaws in the DBA and that systemic reform of the program is needed. The Subcommittee is currently working with DOL on overhauling the DBA and hopes that legislation will be introduced next session.

10. Energy

The Subcommittee held one hearing on the expansion of the Department of Energy's (DOE) loan guarantee program for new nuclear power plant construction. Following the hearing, the Subcommittee requested that the Congressional Budget Office audit the program and report back to Congress. A report is expected in 2011.

Nuclear power plant construction in the United States has been characterized by cost overruns, abandoned projects, and considerable taxpayer and ratepayer subsidies. According to the Union of Concerned Scientists, "During the 1970s and 1980s, utilities' cost overruns in building nuclear power plants averaged more than 200 percent Utilities abandoned some 100 plants during construction—more than half of the planned nuclear fleet. Taxpayers and ratepayers reimbursed utilities for most of the more than \$40 billion cost of these abandoned plants Ratepayers bore well over \$200 billion (in today's dollars) in cost overruns for completed nuclear plants."⁸⁴

⁸⁴*Nuclear Power: A Resurgence We Can't Afford*, Union of Concerned Scientists (Aug. 2009) (online at www.ucsusa.org/assets/documents/nuclear_power/nuclear-economics-fact-sheet.pdf).

But in recent years, the nuclear power industry has contended that a “nuclear renaissance” is on the horizon.⁸⁵ The industry maintains that new technologies and standardized plant designs will produce results that are totally different from the industry’s history of mismanagement, cost overruns, and taxpayer or ratepayer bailouts. The industry has said that the cost of plant construction will be lower, there will be no cost escalations or construction delays, and the problem of disposal of nuclear waste will be resolved.

Nevertheless, the nuclear industry has not been able to attract private capital to fund its “renaissance.” To help it access capital, the industry has turned to the federal government for its financing, and the government has been responsive. On June 30, 2008, the DOE issued a solicitation for applications for \$18.5 billion in loan guarantees for nuclear plant construction. The current administration is seeking to increase that amount to \$54.5 billion. DOE announced its first “conditional” loan guarantee on February 16, 2010, an \$8.3 billion loan guarantee to the Southern Company for construction of its Vogtle reactors in Georgia.⁸⁶

These loan guarantees purportedly carry no cost to the government and do not require any appropriation. Rather, the sponsoring utility will be required to pay a “credit subsidy fee,” which is theoretically equal to the present value of the default risk. But the GAO has pointed out that “evaluating the risks of individual projects will be complicated and could result in misestimates.”⁸⁷ The DOE has to determine the percentage risk that the project will default and the percentage of the loan that can be “recovered” after default. News services have reported that DOE and the White House Office of Management and Budget (OMB) have been arguing over the size of the credit subsidy fee, with DOE arguing for a rate near the 1 percent suggested by industry representatives and OMB arguing for a higher rate.⁸⁸ DOE has also classified the final credit subsidy fees assigned to projects as confidential.

The Subcommittee raised a number of concerns with DOE. First, the Subcommittee vigorously objected to DOE’s withholding from public scrutiny the credit subsidy fees it determines. There is a strong public interest in knowing this figure, which is supposed to represent protection for taxpayers who ultimately bear liability for any costs resulting from a default. Second, the Subcommittee expressed skepticism about the DOE’s calculation of credit subsidy fees. A credit subsidy fee in that low a range is appropriate for a project that has an extremely low likelihood of default and a very high likelihood of recovering most of the value of the loan after a default.

On April 20, 2010, the Subcommittee held a hearing to address these concerns. If the credit subsidy fees do not represent the true risk of these projects, then taxpayers may be faced with another multi-billion dollar bailout of the nuclear power industry. Following

⁸⁵ See, e.g., *Nuclear Renaissance Presents Significant Employment Opportunities*, Nuclear Energy Institute News Release (Nov. 6, 2007) (online at: www.nei.org/newsandevents/newsreleases/berrigansenaterelase).

⁸⁶ The guarantee is “conditional” on approval of licensing and operation by the NRC.

⁸⁷ GAO-08-750 (Jul. 2008) at 1. According to GAO, even if this risk could be evaluated accurately, a bias exists in this system that will almost certainly result in cost to the taxpayer—“borrowers who believe DOE has underestimated costs . . . are most likely to accept guarantees.”

⁸⁸ See, e.g., *Climatewire* (Nov. 16, 2009).

the hearing and multiple discussions with OMB, the Subcommittee commissioned an audit by the Congressional Budget Office.

11. Civil Liberties

The Subcommittee has been investigating reports of police and military surveillance of peaceful, non-violent protestors.

In 2008, it was revealed that the Maryland State Police had been conducting undercover surveillance of a number of political advocacy organizations, including anti-war groups and anti-death penalty groups, from 2005 to 2007. Similar incidents in other geographic areas had been disclosed in December 2005, including apparent undercover surveillance of an anti-war planning meeting at a Quaker meetinghouse in Florida and surveillance of a Quaker anti-war rally in Akron, Ohio. These incidents were described in electronic reports created under the Threat and Local Observation Notice (TALON) program, which were leaked to the media in 2005. In early 2009, the Subcommittee began an investigation intended to determine whether these incidents were isolated occurrences or whether they were indicative of a nationwide over-reaching by overly zealous law enforcement personnel. The Subcommittee identified 263 TALON reports relating to protests or demonstrations that had been determined by the DOD to be inappropriate for the TALON database, removed from the database, and stored on a computer disc. In conjunction with the Subcommittee on National Security and Foreign Affairs, we asked to review those reports. After reviewing the reports we sent letters to the Secretary of Defense, the Attorney General, and the Secretary of Homeland Security requesting additional documents relating to the monitoring of email of non-violent advocacy groups, the use of false identities to obtain access to emails, the activities of the DHS agent, and the identity of any "Counter-Protest Groups." In the spring of 2010, the subcommittees interviewed several knowledgeable persons. As a result of those interviews, the subcommittees have requested and received additional documents. The subcommittees' investigation is continuing.

12. Fisheries Management and Law Enforcement

The Subcommittee held a field hearing on misconduct at National Marine Fisheries Service (NMFS). Three top officials were subsequently relieved of their duties.

In response to a request from Subcommittee member Representative John F. Tierney, the Subcommittee conducted oversight on the performance of NMFS, the nation's fisheries enforcement agency, which is a division of the National Oceanic and Atmospheric Administration (NOAA). The Subcommittee held a field hearing in Gloucester, Massachusetts, to which we invited the Department of Commerce Inspector General, NOAA officials, and commercial fishermen. The hearing focused principally on the Inspector General's findings of significant problems at the Office of Law Enforcement and NOAA General Counsel for Enforcement Litigation (GCEL).⁸⁹

⁸⁹Department of Commerce Office of Inspector General, *Review of NOAA Fisheries Enforcement Programs and Operations*, OIG 19887 (Jan. 21, 2010); *Review of NOAA Fisheries Enforcement Asset Forfeiture Fund*, OIG 19887-1 (Jul. 1, 2010); *Final Report-Review of NOAA Fisheries Enforcement Programs and Operations*, OIG 19887-2 (Sep. 23, 2010).

Together, the two offices comprise federal fisheries law enforcement.

This began a long-term engagement with NOAA, in which the Subcommittee worked closely with the Inspector General, who made findings of improper document shredding by the top official at Office of Law Enforcement; improper use and inadequate internal controls over the use of the Civil Asset Forfeiture fund into which fines are paid by commercial fisherman for violations of statutes enforced by the Office of Law Enforcement; and misconduct by the senior enforcement attorney in the Gloucester office of GCEL.

Over the course of the engagement, the top official in the Office of Law Enforcement, the supervising official in the Gloucester office of the Office of Law Enforcement, and the senior attorney in the Gloucester office of GCEL were all relieved of their duties.

13. Veterans

The Subcommittee's 2008 probe into Lockheed Martin's poor performance as the private contractor of functions previously performed directly by the federal government resulted in the revocation of a large contract from the defense contractor in 2009.

Retroactive pay awards to eligible retired veterans with combat- or service-related disabilities were enacted by Congress in 2003 and 2004. The function of determining eligibility and calculating military retired and annuitant benefits had been privatized by the Pentagon in 2001. At the time of our probe, Lockheed Martin was the prime contractor for the "VA Retro Pay" project. But delays in delivering the new benefits were significant. The Defense Finance and Accounting Service (DFAS) determined that more than 133,000 potentially eligible veterans were waiting for adjudication of their claims three years after Congress enacted the laws. The backlog grew to over 217,000 veterans as delays compounded. To determine the causes of the delays in the VA Retro program, the Subcommittee reviewed a total of 16,000 pages of documents produced separately by DFAS and Lockheed Martin and interviewed disabled veterans whose VA Retro payments had been delayed or denied.

The Subcommittee's 2008 report found, *inter alia*, that: (1) up to 8,763 disabled veterans died before their cases were reviewed for VA Retro eligibility; (2) DFAS found Lockheed's performance deficient but was unable to assess penalties by the contract's terms; (3) DFAS cut back quality control and used federal workers to supplement Lockheed's workforce to decrease payment backlog; (4) DFAS bypassed GAO regulations on statistical sampling in federal quality-control procedures; (5) Lockheed applied a weaker standard to quality assurance than the standard mandated by GAO; (6) up to 60,051 payments to veterans were issued after a suspension of quality control measures went into effect on March 1, 2008; and (7) at least 28,283 veterans were denied retroactive pay based on determinations made wholly without quality assurance review.⁹⁰ At the Subcommittee's 2008 hearing, the Defense Department pledged to recalculate all denials of benefits previously determined by Lock-

⁹⁰ Domestic Policy Subcommittee, Oversight and Government Reform Committee, Staff Report on Hearing on "Die or Give Up Trying": How Poor Contractor Performance, Government Mismanagement and the Erosion of Quality Controls Denied Thousands of Disabled Veterans Timely and Accurate Retroactive Retired Pay Awards, 110th Cong., 2nd Session (Jul. 15, 2008).

heed Martin. The Subcommittee continued its oversight with meetings and a letter in October 2008.

In the spring of 2009, the DOD cancelled its \$346 million contract with Lockheed and brought the work back in-house. To our knowledge, this marks the largest reversal of a privatization in DOD history. Also, thousands of veterans whose benefits were potentially wrongly denied or miscalculated by Lockheed received new benefit determinations, pursuant to an agreement between the Subcommittee and DFAS.

14. Airline Regulation

The Subcommittee has been conducting an investigation of the merger between United Air Lines and Continental Airlines. The investigation has focused on the veracity of Continental representations to Congress about its merger plans, the potential harms to consumers resulting from the merger, and the merger's legality under section 7 of the Clayton Antitrust Act.

The Subcommittee has been conducting an investigation of the merger between United Air Lines and Continental Airlines. The investigation has focused on antitrust and policy issues, including the potential that the new United would exercise market power to the detriment of consumers through the adoption of anticompetitive measures, including service cuts to certain regional locations and price increases that will subsequently be adopted industry-wide because of reduced industry competition and capacity. Furthermore, despite assurances from the airlines that they had no present plans for hub closures, the Subcommittee has been concerned that service cuts and associated job reductions threaten to disproportionately harm Cleveland and surrounding communities that have been served by Continental's Cleveland hub.

On June 15, 2010, the Subcommittee requested that Continental produce documents relating to representations that Continental made to the government regarding its plans to merge with United; documents relating to project revenue gains realized by the proposed merger; and documents relating to any planning for, or financial projections of, the merger, including hub cuts, service reductions, fare hikes, and jobs cuts as a goal or result of the merger. The Subcommittee has been engaged with representatives from Continental about its document production and its post-merger plans.

On October 1, 2010, after receiving antitrust approval from the Department of Justice in late August and shareholder approval in September, United and Continental concluded their merger. Before merging, the airlines agreed to a protocol with the Attorney General of Ohio designed to provide some protections to service at Cleveland hub over the next five years contingent on the hub's profitability. The Subcommittee's investigation continues and is focused on the new United's commitment to maintaining service in Cleveland; its forthrightness in the process of its dealings with Congress, including the Subcommittee's current oversight; and the adequacy of federal antitrust laws to protect against harmful consolidation in the airline industry.

15. Chronology of Subcommittee Proceedings

The Subcommittee held 30 days of hearings and received testimony from 174 witnesses.

“Peeling Back the TARP: Exposing Treasury’s Failure to Monitor the Ways Financial Institutions are Using Taxpayer Funds Provided under the Troubled Asset Relief Program” (March 11, 2009). Witnesses: Mr. Neel Kashkari, Acting Interim Assistant Secretary for Financial Stabilization, Department of the Treasury; Professor Anthony B. Sanders, W.P. Carey School of Business, Arizona State University; Stephen Horne, VP, Master Data Management and Integration Services, Dow Jones & Co.; Mark Bolgiano, President and CEO, XBRL US, Inc.; Neil M. Barofsky, Special Inspector General for the Troubled Assets Relief Program; Richard Hillman, Managing Director, Financial Markets and Community Investment, Government Accountability Office.

“The H-2B Guestworker Program and Improving the Department of Labor’s Enforcement of the Rights of Guestworkers” (April 23, 2009). Witnesses: Mr. Aby Karickathara Raju, Former H-2B Guestworker from India for Signal International LLC, Member of the Alliance of Guestworkers for Dignity; Mr. Miguel Angel Jovel Lopez, Former H-2B Guestworker from El Salvador for Cumberland Environmental Resources, Co., Member of the Alliance of Guestworkers for Dignity; Mr. Daniel Castellanos-Contreras, Former H-2B Guestworker from Peru for Decatur Hotels LLC, Organizer and Founding Member of the Alliance of Guestworkers for Dignity; Mr. Saket Soni, Executive Director, New Orleans Workers’ Center for Racial Justice; Ms. Mary Bauer, Director, Immigrant Justice Project, Southern Poverty Law Center; Ms. Catherine Ruckelshaus, Legal Co-Director, National Employment Law Project; Professor Patrick A. McLaughlin, Ph.D., Mercatus Center at George Mason University.

“ONDCP’s Fiscal Year 2010 National Drug Control Budget and the Policy Priorities of the National Drug Control Policy under the New Administration” (May 19, 2009). Witnesses: Gil Kerlikowske, Director, Office of National Drug Control Policy; John Carnevale, Ph.D., President of Carnevale Associates, LLC; Peter Reuter, Professor, School of Public Policy and Department of Criminology, University of Maryland; Gail C. Christopher, Ph.D., Chair, Panel on the Office of National Drug Control Policy: Building the Capacity to Address the Nation’s Drug Problems, National Academy of Public Administration.

“Bank of America and Merrill Lynch: How Did a Private Deal Turn Into a Federal Bailout? (Part I)” (June 11, 2009). Witness: Kenneth D. Lewis, Chief Executive Officer and President, Bank of America.

“After Injury, the Battle Begins: Evaluating Workers’ Compensation for Civilian Contractors in War Zones” (June 18, 2009). Witnesses: Seth D. Harris, Deputy Secretary, Department of Labor; Timothy Newman, former civilian contractor in Iraq; Kevin Smith, former civilian contractor in Iraq; John Woodson, former civilian contractor in Iraq; Kristian P. Moor, President of AIU Holdings, Inc., a division of AIG; George R. Fay, Executive Vice President, Worldwide P&C Claims, CNA Financial; Gary Pitts, Esq., Pitts and Mills Attorneys at-Law.

“Bank of America and Merrill Lynch: How Did a Private Deal Turn Into a Federal Bailout? (Part II)” (June 25, 2009). Witness: Ben S. Bernanke, Chairman, Board of Governors, Federal Reserve.

“Bank of America and Merrill Lynch: How Did a Private Deal Turn Into a Federal Bailout? (Part III)” (July 16, 2009). Witness: Henry M. Paulson, Jr., former Secretary of the Treasury.

“Arbitration or ‘Arbitrary’: The Misuse of Mandatory Arbitration to Collect Consumer Debts” (July 22, 2009). Witnesses: Mr. Michael Kelly, Chief Operating Officer, National Arbitration Forum; Mr. Richard Naimark, Senior Vice President, International Centre for Dispute Resolution, American Arbitration Association; Mr. F. Paul Bland, Staff Attorney, Public Justice; Professor Christopher R. Drahozal, John M. Rounds Professor of Law, University of Kansas School of Law; The Honorable Lori Swanson, Attorney General, State of Minnesota.

“Ready-to-Eat or Not?: Examining the Impact of Leafy Greens Marketing Agreements” (July 29, 2009). Witnesses: Rayne Pegg, Administrator, Agriculture Marketing Service, U.S. Department of Agriculture; Jeffrey Shuren, Associate Commissioner for Policy Planning, U.S. Food and Drug Administration; Scott Horsfall, Chief Executive Officer, California Leafy Greens Marketing Board; Caroline Smith-DeWaal, Director of Food Science, Center for Science in the Public Interest; Dale Coke, Farmer and Member of Community Alliance with Family Farmers; Kelly Cobb, Survivor of E. Coli Poisoning.

“Between You and Your Doctor: The Private Health Insurance Bureaucracy (Part I)” (September 16, 2009). Witnesses: Mr. Mark Gendernalik, father of Sidney Gendernalik, Los Angeles, CA; Ms. Erinn Ackley, daughter of William Ackley, Red Lodge, MT; Dr. Mel Stern, M.D., Pediatrician, Highland, MD; Dr. Linda Peeno, M.D., former Review Physician for Humana, Louisville, KY; Mr. Wendell Potter, former Head of Corporate Communications for CIGNA, Philadelphia, PA; Ms. Karen Pollitz, Project Director, Health Policy Institute, Georgetown University, Washington, D.C.; Mr. Michael Cannon, Director, Health Policy Studies, Cato Institute, Washington, D.C..

“Between You and Your Doctor: The Private Health Insurance Bureaucracy (Part 2)” (September 17, 2009). Witnesses: Mr. Richard A. Collins, Senior Vice President of Underwriting, Pricing, and Healthcare Economics, UnitedHealthcare Group, CEO of Golden Rule Insurance Company and President of UnitedHealthOne; Mr. Brian A. Sassi, President and Chief Executive Officer, Wellpoint, Inc.; Ms. Patricia Farrell, Senior Vice President, National and International Business Solutions, Aetna, Inc.; Mr. James H. Bloem, Senior Vice President, Chief Financial Officer and Treasurer, Humana, Inc; Mr. Tom Richards, Senior Vice President, Product Delivery, CIGNA; Ms. Colleen Reitan, Executive Vice President and Chief Operating Officer, Health Care Service Corporation (doing business as Blue Cross and Blue Shield of Illinois, New Mexico, Oklahoma, and Texas).

“Medicaid’s Efforts to Reform Since the Preventable Death of Deamonte Driver: A Progress Report” (October 7, 2009). Witnesses: Cindy Mann, Director, Center for Medicaid and State Operations; Katherine Iritani, Assistant Director, Health Issues, U.S. Government Accountability Office; Burton L. Edelstein, D.D.S., M.P.H.,

Chair, Children's Dental Health Project; Mary G. McIntyre, M.D., M.P.H., Medical Director, Office of Clinical Standards and Quality, Alabama Medicaid Agency; Joel Berg, D.D.S., M.S., Chair, Department of Pediatric Dentistry, University of Washington; Frank Catalanotto, D.M.D., Professor and Chair, Department of Community Dentistry and Behavioral Sciences, University of Florida College of Dentistry, Representing American Dental Education Association.

"Examining the Continuing Crisis in Residential Foreclosures and the Emerging Commercial Real Estate Crisis: Perspectives from Atlanta" (November 2, 2009). Witnesses: The Honorable Vincent Fort, Georgia State Senator (D-39); The Honorable Andrew Young, Chairman, GoodWorks International, LLC; Mr. Burt Manning, Chief Assessor, Fulton County Board of Tax Assessors; Mr. Brent Brewer, 30310 Mortgage Fraud Task Force; Mr. William J. Brennan, Esq., Director, Atlanta Legal Aid Society's Home Defense Project; Ms. Tia McCoy, Homeownership Center Manager, Resources for Residents and Communities; Mr. Dan Immergluck, Associate Professor, City and Regional Planning Program, Georgia Institute of Technology; Mr. Frank Alexander, Professor of Property, Real Estate Sales and Finance, State and Local Government Law, Law and Theology, Federal Housing Policies and Homelessness, Emory University School of Law; Ms. Saqirah Redmond, client of Resources for Residents and Communities of Georgia, Mr. Andy Schneggenburger, Executive Director, AHAND (Atlanta Housing Association of Neighborhood Based Developers); Mr. Joe Brannen, President & CEO, Georgia Bankers Association; Mr. Jeff Betsill, President, Jeff Betsill Homes, Inc.; Mr. Michael Rossetti, President, Ravin Homes, Inc.; Mr. Jon D. Greenlee, Associate Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve.

"Bank of America and Merrill Lynch: How Did a Private Deal Turn Into a Federal Bailout? (Part IV)" (November 17, 2009). Witnesses: Brian Moynihan, President, Consumer and Small Business Banking, Bank of America; Timothy J. Mayopoulos, former General Counsel, Bank of America; Charles Gifford, Member of the Bank of America Board of Directors; Thomas J. May, Member of the Bank of America Board of Directors.

"Examining Local Efforts to Address the Continuing Foreclosure Crisis: Perspectives from Cleveland, OH" (December 7, 2009). Witnesses: The Honorable Mike Foley, Ohio State Representative, 14th Legislative District; The Honorable Tim Grendell, Ohio State Senator, 18th Legislative District; The Honorable Michael Dudley, Sr., Councilmember, Garfield Heights Ward One; Mr. Daryl Rush, Director of Community Development, City of Cleveland; Mr. Jim Rokakis, Treasurer, Cuyahoga County; Ms. Phyllis Caldwell, Chief Homeownership Preservation Officer, U.S. Department of the Treasury; Mr. Mark Seifert, Executive Director, Empowering and Strengthening Ohio's People; Mr. Frank Ford, Senior Vice President, Neighborhood Progress, Inc.; Mr. Robert Grossinger, Senior Vice President for Community Affairs, Bank of America; Ms. Claudia Coulton, Co-director, Center on Urban Poverty & Community Development, Case Western Reserve University, Mandel School of Applied Social Sciences.

“Bank of America and Merrill Lynch: How Did a Private Deal Turn Into a Federal Bailout? (Part V)” (December 11, 2009). Witnesses: The Honorable Sheila C. Bair, Chairman, Federal Deposit Insurance Corporation; Mr. Robert Khuzami, Director, Division of Enforcement, United States Securities and Exchanges Commission.

“The Government as Dominant Shareholder: How Should the Taxpayer’s Ownership Rights Be Exercised? (Part I)” (December 16, 2009). Witnesses: Ms. Orice Williams Brown, Director, Financial Markets and Community Investment, Government Accountability Office; Professor B. Espen Eckbo, Tuck School of Business at Dartmouth; Professor J.W. Verret, Assistant Professor of Law, George Mason University School of Law; Ms. Anne Simpson, Senior Portfolio Manager, Global Equity, California Public Employees’ Retirement System; Mr. Alan Tonelson, Research Fellow, U.S. Business and Industry Council Educational Foundation; Mr. Ralph Nader, Consumer Advocate, Washington, D.C.

“The Government as Dominant Shareholder: How Should the Taxpayer’s Ownership Rights Be Exercised? (Part II)” (December 17, 2009). Witness: Mr. Herbert M. Allison, Jr., Assistant Secretary for Financial Stability, U.S. Department of Treasury.

“Foreclosures Continue: What Needs to Change in the Administration’s Response” (February 5, 2010). Witnesses: Ms. Phyllis Caldwell, Chief Homeownership Preservation Officer, U.S. Department of Treasury; Mr. David Berenbaum, Chief Program Officer, National Community Reinvestment Coalition; Ms. Patricia Stringfield; Ms. Julia Gordon, Senior Policy Counsel, Center for Responsible Lending; Mr. Ronald Faris, President, Ocwen Financial Corporation; Mr. Jim Rokakis, Treasurer, Cuyahoga County, Ohio; Mr. Bill Sheil, Investigative Reporter, WJW-TV8 Cleveland, Ohio; Mr. Ed Pinto, Former Chief Credit Officer, Federal National Mortgage Association.

“Will NOAA’s New Leadership Address Serious Problems in Fishery Law Enforcement?” (March 2, 2010). Witnesses: Todd Zinser, Inspector General, Department of Commerce Office of Inspector General; Jane Lubchenco, Ph.D., Under Secretary of Commerce for Oceans and Atmosphere, Administrator, National Oceanic and Atmospheric Administration; Dale Jones, Director, Office for Law Enforcement, National Oceanic and Atmospheric Administration Fisheries Service; Stephen Ouellette, Attorney; Richard Burgess, Gloucester-based fisherman; Jim Kendall, New Bedford Seafood Consulting, former scallop fisherman, former two-term New England Fishery Council member.

“Continuing Problems in USDA’s Enforcement of the Humane Methods of Slaughter Act” (March 4, 2010). Witnesses: Jerold Mande, Deputy Undersecretary for Food Safety, USDA; Lisa Shames, Director, Natural Resources and the Environment, Government Accountability Office; Dr. Dean Wyatt, FSIS Public Health Veterinarian, Colchester, VT; Stanley Painter, Chairman, National Joint Council of Food Inspection Locals, American Federation of Government Employees; Bev Eggleston, Owner, Ecofriendly Foods LLC; Wayne Pacelle, President and CEO, Humane Society of the United States.

“ONDCP’s Fiscal Year 2011 National Drug Control Budget: Are We Still Funding the War on Drugs?” (April 14, 2010). Witnesses: Gil Kerlikowske, Director, Office of National Drug Control Policy;

John Carnevale, Ph.D., President, Carnevale Associates, LLC; Ethan Nadelmann, Ph.D., J.D., Executive Director, Drug Policy Alliance; Peter Reuter, Professor, School of Public Policy and Department of Criminology, University of Maryland; Vanda Felbab-Brown, Ph.D., Fellow, The Brookings Institution.

“Nuclear Power’s Federal Loan Guarantees: The Next Multi-Billion Dollar Bailout?” (April 20, 2010). Witnesses: Ms. Leslie Kass, Senior Director of Business Policy and Programs, Nuclear Energy Institute; Mr. Peter Bradford, former member, U.S. Nuclear Regulatory Commission, former Chairman, New York State Public Service Commission, former Chairman, Maine Public Utilities Commission, Adjunct Professor, Vermont Law School; Mr. Jack Spencer, Research Fellow in Nuclear Energy, Thomas A. Roe Institute for Economic Policy Studies, The Heritage Foundation; Dr. Arjun Makhijani, President, Institute for Energy and Environmental Research; Mr. Michael D. Scott, Managing Director, Miller Buckfire & Co., LLC; Dr. Mark Cooper, Senior Fellow for Economic Analysis, Institute for Energy and the Environment, Vermont Law School; Mr. Henry Sokolski, former Deputy for Nonproliferation Policy, Office of the Secretary of Defense, President and Executive Director, Nonproliferation Policy Education Center; Mr. Richard Caperton, Policy Analyst, Center for American Progress; Mr. Christopher Guith, Vice President of Public Policy, U.S. Chamber of Commerce.

“Assessing EPA Efforts to Measure and Reduce Mercury Pollution from Dentist Offices” (May 26, 2010). Witnesses: Ms. Nancy Stoner, Deputy Assistant Administrator for Water, U.S. Environmental Protection Agency, Office of Water; Mr. William Walsh, of Counsel, Pepper Hamilton LLP, representing American Dental Association (ADA); Mr. Steven Brown, Executive Director, The Environmental Council of the States (ECOS); Mr. Al Dube, National Sales Manager, Dental Division, SolmeteX division of Layne Christensen Company; Mr. Alexis Cain, Scientist, U.S. Environmental Protection Agency, Region 5; Mr. John Reindl, Mercury Policy Project.

“Treating Addiction as a Disease: The Promise of Medication-Assisted Recovery” (June 23, 2010). Witnesses: Dr. Thomas McLellan, Ph.D., Deputy Director, Office of National Drug Control Policy; Dr. Nora D. Volkow, MD, Director, National Institute on Drug Abuse; Mr. Michael Mavromatis, member, Addictionsurvivors.org; Dr. Jeffrey Samet, MD, MA, MPH, Professor of Medicine, Boston University School of Medicine; Mr. Gregory C. Warren, MA, MBA, President and CEO, Baltimore Substance Abuse Systems, Inc.; Mr. Orman Hall, Executive Director, Fairfield County, Ohio, Alcohol Drug Abuse Mental Health Board; Mr. Charles O’Keeffe, Professor, Departments of Pharmacology & Toxicology/Epidemiology & Community Health, Institute for Drug and Alcohol Studies, VCU School of Medicine; Richard F. Pops, Chairman, President and Chief Executive Officer, Alkermes, Inc.

“International Counternarcotics Policies: Do They Reduce Domestic Consumption or Advance other Foreign Policy Goals?” (July 21, 2010). Witnesses: Mr. Jess T. Ford, Director, International Affairs and Trade Team, U.S. Government Accountability Office; Mr. R. Gil Kerlikowske, Director, Office of National Drug Control Policy; Ambassador David T. Johnson, Assistant Secretary of State, Bu-

reau of International Narcotics and Law Enforcement, U.S. State Department; Mr. William F. Wechsler, Deputy Assistant Secretary of Defense for Counternarcotics and Global Threats, U.S. Department of Defense; Mr. Adam Isacson, Senior Associate for Regional Security, Washington Office on Latin America; Ms. Vanda Felbab-Brown, Ph.D., Foreign Policy Fellow, The Brookings Institution; Mr. Mark Kleiman, M.P.P. and Ph.D., Professor of Public Policy, UCLA School of Public Affairs.

“Quitting Hard Habits: Efforts to Expand and Improve Alternatives to Incarceration for Drug-Involved Offenders” (July 22, 2010). Witnesses: Mr. James H. Burch, II, Acting Director of the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice; Mr. Benjamin B. Tucker, Deputy Director for State, Local, and Tribal Affairs, Office of National Drug Control Policy; Angela Hawken, Ph.D., Associate Professor, Pepperdine University School of Public Policy; John Roman, Ph.D., Senior Research Associate, Justice Policy Center, Urban Institute; Douglas B. Marlowe, Ph.D., Chief of Science, Law and Policy, National Association of Drug Court Professionals; Mr. Daniel N. Abrahamson, Director of Legal Affairs, Drug Policy Alliance; Ms. Melody M. Heaps, President Emeritus, Treatment Alternatives for Safe Communities (TASC); Harold A. Pollack, Ph.D., Professor, University of Chicago School of Social Service Administration.

“Are ‘Superweeds’ an Outgrowth of USDA Biotech Policy? (Part I)” (July 28, 2010). Witnesses: Mr. Troy Roush, Farmer, Van Buren, Indiana; Mr. Micheal Owen, Professor of Agronomy, Iowa State University, Member, National Research Council Committee on the Impact of Biotechnology on Farm Economics and Sustainability; Mr. Stephen Weller, Professor of Horticulture, Purdue University; Mr. David A. Mortensen, Professor of Weed Ecology, Pennsylvania State University; Mr. Andrew Kimbrell, Executive Director, Center for Food Safety.

“From Molecules to Minds: The Future of Neuroscience Research & Development” (September 29, 2010). Witnesses: Thomas R. Insel, M.D., Director, National Institute of Mental Health; Walter J. Koroshetz, M.D., Deputy Director, National Institute for Neurological Disorders and Stroke; Joel Kupersmith, M.D., Chief Research and Development Officer, Veterans Health Administration, U.S. Department of Veterans Affairs; Terry Rauch, Ph.D., Director, Defense Medical Research and Development Program, Office of the Assistant Secretary of Defense for Health Affairs, Department of Defense; Huda Akil, Ph.D., Co-Director and Research Professor, The Molecular & Behavioral Neuroscience Institute, University of Michigan; William Z. Potter, M.D., Ph.D., Former Vice President in Neuroscience at Merck Research Labs; Tim Coetzee, Ph.D., Executive Director, Fast Forward, LLC; Kevin Kit Parker, Ph.D., Associate Professor of Applied Science and Biomedical Engineering, Harvard University; John H. Morrison, Ph.D., Dean, Basic Sciences and the Graduate School of Biological Sciences, Mount Sinai Medical Center.

“Are ‘Superweeds’ an Outgrowth of USDA Biotech Policy? (Part II)” (September 30, 2010). Witnesses: The Honorable Ann Wright, Deputy Under Secretary, U.S. Department of Agriculture; The Honorable Jim Jones, Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention, U.S. Environmental

Protection Agency; Mr. Steve Smith, Director of Agriculture, Red Gold Tomato; Mr. Phil Miller, Vice President, Global Regulatory, Monsanto Company; Mr. Bill Freese, Science Advisor, Center for Food Safety; Mr. Jay Vroom, CEO, CropLife America.

B. SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE, AND
THE DISTRICT OF COLUMBIA

The Subcommittee on Federal Workforce, Postal Service, and the District of Columbia has jurisdiction over federal employee issues, the municipal affairs (other than appropriations) of the District of Columbia, and the Postal Service. The Subcommittee's jurisdiction includes postal namings, holidays, and celebrations. In the 111th Congress, Rep. Stephen F. Lynch served as Chairman and Rep. Jason Chaffetz as Ranking Member.

1. *Overview by Issue Area*

a. *Federal Workforce*

(1) *Federal Employees Health Benefits Program*

The Subcommittee is charged with overseeing the Federal Employees Health Benefits Program (FEHBP), the nation's largest employer-sponsored health plan with approximately nine million enrollees. The Subcommittee is committed to exploring ways to reduce costs, both for the employee and annuitant enrollees, and for the federal government as an employer. An area of particular focus for the Subcommittee was netting substantial savings for FEHBP through the Office of Personnel Management's (OPM) adoption of transparent prescription drug contracting requirements relating to the carrier's pharmacy benefit managers, PBMs. Under FEHBP, OPM does not contract directly for prescription drug benefits, and the agency solely relies on the individual health plans to provide the prescription drug benefit, resulting in limited internal or external reviews of the program pharmacy benefits and pricing structure. Recent OPM Office of Inspector General (OIG) audits concluded that the plans' PBM contracts were poorly structured and designed, as well as lacking transparency.

The Subcommittee believes that major obstacles remain in trying to determine whether or not the FEHBP receives a "good deal" for its prescription drug benefits with the lack of data or any in-depth reviews on FEHBP's pharmacy pricing and/or benefits showing what type of favorable pricing, rebates, dispensing, and administrative fees the overall program is receiving based on such factors as its large volume and purchasing power. In the absence of any substantial contractual or regulatory changes made by OPM relating to the FEHBP's prescription benefits, the Chairman introduced H.R. 4489, the FEHBP Prescription Drug Integrity, Transparency, and Cost Savings Act on January 21, 2010, following two hearings on this topic (one in each session), as well as hosting a legislative drafting forum specifically arranged for the entire FEHBP community of stakeholders including enrollees, carriers, PBMs, and pharmaceutical manufacturers.

Additionally, the Subcommittee studied the prescription drug pricing options utilized by the Departments of Veterans' Affairs (VA) and Defense (DOD), as well as overall private sector drug pricing measures and arrangements. A further area of particular

interest are the VA and DOD's use of formularies, pharmacies, and prime vendors to lower drug prices. At present, both agencies' formularies encourage the substitution of lower-cost drugs determined to be as effective as or more effective than higher-cost drugs. Additionally, the VA and DOD use prime vendors, which are preferred drug distributors, to purchase drugs from manufacturers who then deliver the drugs to VA or DOD facilities. DOD and the VA receive discounts from their prime vendors that also reduce the prices that they pay for prescription drugs. As part of its work, the Subcommittee met with OPM, as well as officials from DOD's Tricare program, and conferred with multiple health care experts ranging from the Department of Health and Human Services, the VA, GAO, and outside groups representing enrollees, carriers, PBMs, and unaffiliated health policy experts.

(2) Pay-for-Performance Issues

The Subcommittee devoted considerable time to the issue of pay-for-performance, as well as to other pay and personnel systems issues. A review was conducted of the DOD's National Security Personnel System (NSPS), which included the DOD, labor and management representatives, as well as outside human resource experts. The Subcommittee heard from employees—both labor and management—who were confused by and frustrated by NSPS. Ultimately, the Subcommittee determined that NSPS had been poorly implemented at large expense to taxpayers, and DOD was not able to demonstrate any impact on employee performance or work ethic from its adoption. Given that the personnel system failed to produce any improved worker performance or management abilities, but did demonstrate unfair and non-transparent compensation practices, as well as disparate treatment based on grade and race, the Subcommittee successfully advocated for its repeal in the Fiscal Year (FY) 2010 National Defense Authorization Act (NDAA). Additionally, the Subcommittee reviewed the Defense Civilian Intelligence Personnel System (DCIPS) and observed many of the same findings.

(3) Federal Retirement Programs and Benefit Offerings

The Subcommittee worked to improve the federal retirement programs by advancing and achieving enactment of long-pending legislation relating to both the Federal Employees Retirement System (FERS) and the Civil Service Retirement System (CSRS). Following enactment of the FY2010 NDAA, FERS employees will receive retirement credit for the purposes of the annuity calculation for unused sick leave accumulated at the time of retirement, similar to their CSRS counterparts, resulting in increase agency productivity. Additionally, like CSRS employers, FERS workers, who earlier withdrew retirement contributions, will be able to re-deposit those contributions with interest, should they return to federal service. CSRS workers will, like FERS employees, be able to phase-down during their final years of service, without jeopardizing the high-three annuity calculation of their annuities, resulting in increased retention of agency leaders who will train and develop the next generation of agency heads directly replacing them. Further, certain District of Columbia courts, parole, and public defender employers, who were earlier transferred from federal service, will now

be able to properly receive full retirement credit for the sum of their government service. And, federal workers in Hawaii, Alaska, Puerto Rico, U.S. Virgin Islands, Guam, and the Northern Mariana Islands will be treated equally for purposes of pay and will receive locality pay, by giving up the now-defunct, tax-free Non-Foreign Cost-of-Living Adjustment (N-COLA).

In the area of the Thrift Savings Plan (TSP), the Subcommittee achieved catching federal workers' 401(k)-style plan up to existing private-sector 401(k) options by seeking enactment of auto-enrollment and a Roth-401(k) option within the TSP. The Subcommittee also focused on keeping the TSP plan up-to-speed with various IRS rule and tax code changes that applied to regular 401(k) plans, resulting in the Chairman introducing H.R. 4865, the Federal Employees and Uniformed Services Retirement Equity Act of 2010.

In another attempt to keep the federal workplace on par with the private-sector, the Subcommittee worked to promote the adoption of telework by federal agencies. Given the need for agencies to function in a 21st Century environment, as well as the federal government as an employer needing to offer telework for recruitment and retention to be able to compete for talent against private-sector employers, the Subcommittee focused on enhancing and obtaining enactment of H.R. 1722, the Telework Improvements Act of 2009.

As part of its commitment to equal pay for equal work, the Subcommittee became the first Congressional Subcommittee to consider, markup and favorably report out H.R. 2517, legislation to ensure equal treatment to lesbian and gay federal civilian employees by providing that same-sex partners be entitled to the same health and retirement benefits available to a married federal employee and his or her spouse. Considerable time was devoted to ensuring that all benefits available to employees' spouses under Chapters 81, 83, 84, 85, 87, 89, and 90 of title 5 United States Code (U.S.C.) were correctly amended to include same-sex domestic partners.

Adoption of paid parental leave was another Subcommittee priority in the 111th Congress. The Subcommittee advanced H.R. 626, legislation to provide federal workers with four weeks of pay following the birth, adoption or fostering of a new child, as a way to ensure the federal government as an employer offers attractive maternity benefits to younger applicants and workers, at a time of great need to recruit and retain younger workers given the relative aged nature of the federal workforce.

In its assessment of types of benefits made available to deployed federal employees, the Subcommittee met with several groups of injured civilian employees who detailed significant issues with accessing treatment upon return home for injuries sustained while working in designated combat areas. Recognizing that over 100,000 federal employees have served in combat areas since 2001, and that current conditions in Iraq (pull-out of the U.S. military resulting in less security and health care support), Afghanistan, and Pakistan (higher number of employees heading into these unstable countries) may lead to increased numbers of injured civilian employees, the Subcommittee successfully inserted language in the pending FY 2011 NDAA to ensure that all federal employees who are injured serving in combat zones receive the proper medical treatment either through their workers' compensation program or health plans (under Chapters 81 or 89 of title 5 U.S.C.) upon re-

turn home. Of particular concern was ensuring government-wide uniform benefits and policies across multiple agencies, as well as avoiding the current situation of FEHBP plans refusing to provide treatment for an injury deemed work-related, while the Department of Labor's (DOL) Office of Worker's Compensation Program (OWCP) denies the injured individual's claim.

(4) Employee Training and Development

The Subcommittee reviewed various Merit System Protections Board (MSPB) reports, as well as individual agency audits and reports, highlighting the detrimental effect the lack of managerial training has on the overall federal workforce, as well as ultimately on the output of federal agencies. As such, the Subcommittee promoted H.R. 5522, the Federal Supervisor Training Act of 2010, requiring on-going managerial training for federal supervisors with the goal of creating a more skilled and professional federal workforce for the American people. The Subcommittee worked to lower the bill's discretionary cost by limiting the type of training that would be made available to federal managers and supervisors.

(5) Oversight Duties

The Subcommittee conducted multiple oversight hearings to ensure the federal government's proper treatment of its employees, including reviewing agencies' occupational safety and health protocols for protecting federal workers against communicable and occupational diseases (including H1N1 influenza and ionized radiation exposure) and examining federal employee workplace security in the areas of facility risk assessments and agency emergency preparedness and safety training. The Subcommittee's sustained focus on the issue of Department of Homeland Security (DHS) front-line employees being denied the right to voluntarily wear N-95 and surgical masks, as well as gloves and hand sanitizer, during the H1N1 outbreak, resulted in the requirement that DHS front-line employees now have the right to use personal protective equipment during a public health emergency.

Additionally, the Subcommittee performed routine and continuing oversight over multiple federal agencies in the following areas:

OPM: FEHBP, both over the existing program and as part of overall health care reform), hiring reform proposals, retirement services (concerning large back-log in processing of annuities, and whether adequate staffing and financial resources are in place for the programs to function properly), Federal Employee Group Life Insurance (FEGLI) contracting practices (involving retained-asset accounts and incorrect and conflicting information and materials provided to beneficiaries and survivors), Federal Long-Term Care Insurance Program (FLTCIP) contracting practices (involving premium increases and conflicting and confusing information and materials provided to beneficiaries).

Other agencies: general hiring authorities and practices including compliance with competitive hiring and veterans' preference laws, personnel practices involving seasonal, intermittent, temporary and term employees (roughly ten percent of federal workers), pay practices and waivers for select groups of hard-to-recruit and retain employees in mission-critical areas, DOL's OWCP (relat-

ing to overall timeliness of claims being processed and customer service, employees obtaining medical treatment for on-the-job injuries, including those serving in higher-risk areas such as in combat areas and in certain law enforcement positions).

(6) Legislation

In the legislative arena, the Chairman sponsored bills in the health care and retirement areas of the Subcommittee's jurisdiction. On March 3, 2009, Chairman Lynch introduced H.R.1263, the Federal Retirement Reform Act of 2009 seeking to enhance the Thrift Savings Plan by allowing auto-enrollment of participants into the plan by federal agencies, adding a Roth-401(k) option, and authorizing the Federal Retirement Thrift Investment Board to consider offering a self-directed mutual fund window. Additionally, the bill improved federal retirement programs by granting retirement credit for unused sick leave under FERS and allowing part-time service in the final years of CSRS service without jeopardizing an employee's high-three for purposes of the annuity computation. Further, the bill allowed certain District of Columbia courts, parole and public defender employees who were transferred from federal to DC service to receive federal retirement credit for their DC government employment. An attempt was made to include all of these civil service provisions in the Tobacco bill, H.R. 1256, considered by the House, but only the TSP provisions were successfully added to the tobacco bill that ultimately passed the House and became law on June 22, 2009 (P.L. 111-31). Later, the remaining civil service retirement program improvements were successfully inserted into H.R. 2647, the Fiscal Year 2010 National Defense Authorization, which became law on October 28, 2009 (P.L. 11-84).

The Chairman introduced H.R. 4489, the FEHBP Prescription Drug Integrity, Transparency, and Cost Savings Act on January 21, 2010. The bill would lower the costs of prescription drugs in FEHBP and would provide OPM with additional oversight and contracting authority over the prescription drug benefit. Specifically, the legislation would prohibit a Pharmacy Benefit Manager (PBM) from being under common corporate control with a prescription drug manufacturer or a retail pharmacy; would require brand name drug substitutions to be approved by the patient's physician resulting in a lower net cost to both the health plan and the patient; would require the PBM to return 99 percent of all rebates and other manufacturer payments to the health plan; would limit the amount paid for prescription drugs to the actual costs incurred by the PBM; would provide patients with an explanation of benefits (EOB); and would allow OPM full access to all related contracts and pricing information needed to determine if the health plans were charged appropriately for the prescription drugs purchased.

Like all other health plans, the FEHBP is not immune from rising health care costs and increased usage of ever-more prescription medications. H.R. 4489 is intended to help combat increased plan premiums, copays, co-insurance, and other out-of-pocket expenses that FEHBP enrollees and the federal government as an employer are facing.

The Subcommittee successfully marked up an amendment in the nature of a substitute to H.R. 4489 on March 24, 2009 sending it to the full Committee for consideration. Following the Subcommit-

tee's June 24, 2009 and February 23, 2010 hearings and the Rx Round Table Forum held on September 29, 2009, careful consideration was given to H.R. 4489 resulting in several changes. Ultimately, the Subcommittee had concerns with using the Average Manufacturer Price (AMP) as a pricing benchmark given that there is significant disagreement on what exact costs are included in the calculation of the AMP, and that using AMP as the basis to reimburse the PBMs would translate into being reimbursed less than what they paid for the prescription drugs in most cases. Notably, the manager's amendment differed from the original bill by removing the language that would have limited reimbursement to PBMs to the AMP. Under the amended version of the legislation, FEHBP health plans are to reimburse the PBMs the same amount that the PBMs reimburse retail pharmacy. Another significant change to the bill made at markup is that the legislation is only applicable to experience-rated carriers in the FEHBP which represent about 80 percent of FEHBP's health plan membership. On February 22, 2009 OPM issued an out-of-cycle FEHBP carrier letter informing FEHBP fee-for-service health plans of new contractual transparency requirements regarding FEHBP PBMs for plan year 2011.

On March 17, 2010, the Chairman introduced H.R. 4865, the Federal Employees and Uniformed Services Retirement Equity Act of 2010. The bill would allow TSP participants to catch-up to private-sector workers who under current law are allowed to contribute the dollar value of unused leave into their 401(k) accounts. Under H.R. 4865, federal employees and members of the armed forces would be allowed to either receive a lump-sum payment for any accrued, unused annual leave or to direct this money into their TSP accounts in accordance with IRS annual contribution limits. The bill would assist federal workers and military personnel enhance their TSP savings, especially at a time when participants' accounts have been decimated by the economy. The legislation was marked up by the full Committee on April 14, 2010.

The Subcommittee also considered a variety of federal workforce bills including legislation introduced by Members of the Committee. On March 25, 2009, the Subcommittee marked up and favorably reported out by voice vote H.R. 626, the Federal Employees Paid Parental Leave Act of 2009. The legislation, sponsored by Congresswoman Carolyn Maloney, was later marked up by the full Committee on May 6, 2009 and passed by the House on June 4, 2009. The bill would provide federal workers who qualify for Family and Medical Leave Act (FMLA) leave with four weeks of full pay to use while on FMLA leave for the birth, adoption or fostering of a new child. It would also enable employees to use up to eight weeks of accrued paid sick time during the remainder of their FMLA leave for a new child. Further, the bill gives OPM authority to increase the number of weeks of paid parental leave from four to eight weeks once further studies are conducted. Additionally, the bill requires GAO to conduct a study on the feasibility of providing paid leave for federal employees for the other types of leave covered under the FMLA, such as self-care and providing care for seriously ill family members. The Subcommittee believes that the federal government, as the nation's largest employer, is trailing the private-sector workplace in the area of maternity benefits as 75% of Fortune 100 companies offer at least six weeks of paid maternity

leave. Additionally, the federal workforce is overall an aged workforce, reflecting the difficulty in hiring younger workers, and maternity leave is a major benefit desired by younger, working families.

The Subcommittee considered H.R. 2517, a bill introduced by Congresswoman Tammy Baldwin, to extend employee and retirement benefit offerings to the domestic partners of federal employees and retirees. According to the Bureau of Labor Statistics, nearly thirteen percent of an employee's compensation comes in the form of insurance and retirement benefits and seven percent comes in the form of paid leave, which makes it possible for workers to accommodate work and family obligations. Therefore, a gay or lesbian civilian employee doing the same job at the same pay grade will receive significantly less compensation than his or her married heterosexual counterpart, which means that these employees are not receiving equal pay for equal contributions. This finding is particularly troublesome since the federal merit system requires employees to receive equal pay for equal work. Moreover, as the nation's largest civilian employer, the federal government has historically been a leader in offering benefits to its employees and fostering an equitable workplace. However, when it comes to the offering of domestic partner benefits, the federal government is clearly lagging behind other public and private sector employers in this area of personnel management. For example, the number of Fortune 500 companies that extend benefits to employees with same-sex partners has grown significantly from forty-six companies (9%) in 1997 to two hundred and eighty-six companies (57%) in 2009. Furthermore, almost 10,000 employers nationally offer benefits to domestic partners. Over five hundred of these employers are in the public sector. These employers include 19 state governments and the District of Columbia, over 150 local governments, and hundreds of educational institutions and non-profit entities.

On July 30, 2009 the Subcommittee marked up the Domestic Partnership Benefits and Obligations Act of 2009 bill by vote (5-3) forwarding it to the full Committee. In order to ensure that the bill would fully provide access to each and every federal employee benefit, including health care benefits (FEHBP), retirement and disability benefits (CSRS and FERS), dental and vision benefits (Federal Dental and Vision Insurance Program), group life insurance (FEGLI), long-term care insurance (FLTCIP), compensation for work injuries (FECA), family, medical, and emergency leave (Family Medical and Leave Act), and benefits for disability, death, and captivity, H.R. 2517 was subsequently amended for technical corrections and reported out favorably by the full Committee. The Subcommittee maintains that a continued, pressing need exists for the federal government, as an employer, to be able to attract, recruit, and retain employees through its benefit offerings, which currently exclude certain federal employees' and retirees' immediate family members. Of note, the bill does not impact the Defense of Marriage Act.

In the Second Session, the Subcommittee considered and marked up H.R. 1722, the Telework Improvements Act of 2009. Sponsored by Congressman John Sarbanes, and Representatives Stephen Lynch, Gerald Connolly, Danny Davis, James Moran, Dutch Ruppersberger, and Frank Wolf on March 25, 2009, the bill was

crafted to enhance the federal government's usage and implementation of effective telework programs. Despite the numerous proven benefits of teleworking, which include increased flexibilities for both employers and employees, continuity of operations during emergency events, and decreased energy use and air pollution, telework continues to be underutilized by most government agencies. Much of this under-utilization largely results from issues and barriers such as management resistance, office coverage, organizational culture, and technology security and funding. The bill defines the term telework and requires the head of each executive branch agency to establish a policy that authorizes employees to telework, in conformance with regulations developed by OPM, in consultation with the General Services Administration (GSA). Further, the bill requires the GSA to issue guidance (coordinating where appropriate with OPM and Federal Emergency Management Agency) on questions of eligibility, information security, making telework part of the agency's goals, and continuity of operations planning. Additionally, H.R. 1722 requires each agency to appoint or designate a Telework Managing Officer (TMO) who is to serve as the agency's point of contact on telework issues. The legislation also requires each TMO to collect information about the agency's telework program and provide relevant information to be included in an annual report compiled by GAO. The bill also stipulates a series of evaluation and reporting requirements to be carried out by individual agencies, OPM, GSA and GAO. In particular, H.R. 1722 orders GAO to report annually to Congress on the status of agencies' telework program, rating, and compliance record. The Sarbanes legislation further requires agencies to incorporate telework into agency continuity of operations planning and requires GSA to report to Congress within one year on the extent to which each agency has done so.

Chairman Lynch offered an amendment in the nature of a substitute to H.R. 1722 at the March 24, 2009 Subcommittee markup making several major changes, including: granting OPM greater authority in the development of regulations and policy requirements related to establishing agency telework plans and programs; requiring the incorporation of the term "telework eligibility" in the descriptions of all available positions and other recruitment materials where applicable; transferring the bulk of the reporting and evaluation requirements from GAO to OPM; and removing the Agency compliance requirement, which dictated that each agency establish a policy that allows authorized employees to telework at least twenty percent of every two work weeks. The bill was favorably reported out to the full Committee, and subsequently passed the House on July 14, 2010.

Another Sarbanes bill considered and reported favorably out of Subcommittee on May 27, 2010 was H.R. 3243. Under current law, federal fire fighters are not allowed to trade time (also referred to as to swap a shift or to swap time) and still be paid according to their regularly scheduled work. In contrast, municipal and state fire fighters across the country, under the Fair Labor Standards Act (FLSA) are allowed to trade time and are instead paid as if they had worked their regularly scheduled shift. Unlike at the state and municipal levels, if federal fire fighters trade time, their new shifted schedule can trigger the payment of overtime, and they

are not allowed to be paid as if they had simply worked the scheduled work shift. The workplace scheduling flexibility provided to state and local fire fighters, approved by the employing agency, gives these fire fighters the ability to attend last-minute family obligations while maintaining proper staffing levels. H.R. 3243, would allow trade time to be excluded from the calculation of overtime for federal fire fighters, thereby granting more leave flexibility to these workers without costing any money. It is important to note that it is up to the federal agency to approve the workers' request to switch shifts.

The Subcommittee believes that providing this benefit to federal fire fighters will boost federal agencies' ability to recruit and retain trained fire fighters who heavily desire such scheduling benefits already available at the local and state governmental levels. Moreover, the Subcommittee hoped to highlight the fact that workplace flexibility is also an important benefit to extend to all workers, not just white-collar desk employees. While some benefit offerings such as telework may not be appropriate for all segments of the federal workforce such as those employees who must be on site through their entire shift, such as a federal fire fighter, law enforcement officer or VA nurse, other job flexibilities can—and should be—considered. Otherwise, such flexibilities merely serve to further the divide between white and blue collar employees.

Additionally at the May 27 Business Meeting, the Subcommittee considered and marked up H.R. 3264, introduced by Congressman Gerry Connolly and Brian Bilbray. The bill directs each federal agency to appoint an internship coordinator within the agency, and to make publicly available the coordinator's name and contact information. OPM would be directed to establish and maintain a centralized electronic database that contains the names, contact information, and relevant skills of individuals who have completed (or are nearing completion of) an internship program and who are seeking full-time federal employment. Further, the bill would allow agencies to make noncompetitive appointments leading to conversion to term, career, or career-conditional employment of individuals who have completed an internship program. At the markup, the Chairman offered an amendment in the nature of a substitute to remove the non-competitive appointment authority in the pending bill. The adopted amendment instead utilizes the existing Student Educational Employment Program, which is comprised of both the Student Temporary Employment Program (STEP), and the Student Career Experience Program (SCEP). The bill was favorably reported to the full Committee, and also included in the Fiscal Year 2011 National Defense Authorization Act, H.R. 5136.

On July 21, 2010 the Subcommittee marked up and favorably reported out by voice vote H.R. 5522, the Federal Supervisor Training Act of 2010. Introduced on June 14, 2010 by Congressmen Jim Moran, Frank Wolf and Gerry Connolly, H.R. 5522 would require federal agencies to provide training programs to supervisors. Currently certain agencies, including the Departments of Defense, Justice, Energy, Treasury, Commerce, Education, Veterans' Affairs and State, as well as the Environmental Protection Agency, Nuclear Regulatory Commission, Office of Personnel Management, and the U.S. Agency for International Development, voluntarily provide supervisor training, although they are not required to do

so. Further, such training can be eliminated from an agency's budget due to funding constraints. To that end, the legislation would require federal agencies to establish and authorize funding for the training of all new supervisors within one year of hire or promotion. Additionally, the measure would require on-going training at least once every three years for all supervisors and would establish a mentoring program between experienced and brand-new supervisors. The Subcommittee feels strongly that providing leadership development training to supervisors will result in enhanced agency performance management and overall effectiveness for the American people, and will reduce the number of employee complaints, grievances and adverse appeals, ultimately saving taxpayer funds and increasing worker productivity.

(7) Reports

Reflecting the Subcommittee's concern for the safety of federal employees while on the job inside federal buildings, in light of several violent incidents in early 2010, including the January 4, 2010 shoot-out at the Lloyd D. George Federal Courthouse in Las Vegas, NV killing a U.S. courthouse security officer and injuring a deputy U.S. Marshall; the February 18, 2010 attack on the Echelon federal building in Austin, TX where an individual purposefully flew a plan into IRS offices; and the March 4, 2010 shooting near the Pentagon employee entrance, resulting in the wounding of two officers from the Pentagon's Force Protection Agency, a request was made to GAO following the Subcommittee's March 16, 2010 hearing on this topic for a comprehensive report assessing the risk of violent incidents be they from foreign or domestic sources at federal facilities, as well as reviewing the level of agency preparedness and security training provided to employees. Additionally, GAO was asked to assess the effectiveness and overall competency of Federal Security Committees (FSC) for multi-tenant buildings, the Department of Homeland Security's Inter-Agency Security Committee (ISC), and the Federal Protective Service (FPS).

Following enactment of the Patient Protecting and Affordable Care Act (PPACA) on March 23, 2010, the Subcommittee requested a memorandum from the Congressional Research Service's Law Division to review the new health care law's impact on existing Title 5 United States Code FEHBP statute. While PPACA encompassed the FEHBP given that it amended the Public Health Service Act, various provisions under Chapter 89, Title 5 U.S.C. require amendment.

On September 9, 2010, given the Subcommittee's overall interest in FEHBP drug pricing issues, the Chairman, along with Rep. Steve Driehaus, requested a report from GAO to study the impact repackaged pharmaceuticals have on the FEHBP, particularly on the cost impact to both the health plans and to enrollees.

(8) Other Matters

The Chairman offered a successful floor amendment to the Transportation Security Administration Authorization Act which was considered by the House on June 4, 2009. The Subcommittee's hearing on "Protecting the Protectors: An Assessment of Front-Line Federal Workers and the Swine Flu Outbreak" on May 14, 2009, revealed that front-line Department of Homeland Security workers

were being denied the right to don N-95 protective masks, and other personal protective equipment during the H1N1 flu outbreak, as well as inconsistent messaging and practices across airports, land, and sea border crossings. The Chairman's amendment required the Transportation Security Agency to allow its TSA workers to voluntarily don personal protective equipment to include N-95 and other surgical masks, gloves, and hand sanitizer during a public health emergency. Additionally, the Chairman successfully inserted similar language into Chairman David Price's manager's amendment to H.R. 2892, the Fiscal year 2010 Department of Homeland Security Appropriations Act during House floor consideration. The language passed by the House on June 24, 2009 and ultimately enacted into law on October 28, 2009 (P.L. 111-83) ensures that all Department of Homeland Security employees who interact with the public can use personal protective equipment without negative personnel action .

b. Postal Service

(1) General Oversight of the Postal Service's Financial Condition

Over the past two years, the Subcommittee has conducted rigorous and continuous oversight of the Postal Service's deteriorating financial condition. Since 2008, the Postal Service has experienced a cumulative loss of nearly \$12 billion. While these unprecedented losses are partly due to the nationwide economic downturn which caused massive declines in mail volume, the situation is also a direct result of the continued diversion of communications from hard copy to electronic form and retiree health benefits payments mandated by the Postal Accountability and Enhancement Act (PAEA). While PAEA was instrumental in affording the Postal Service greater operational flexibilities and in permitting, for the first time in history, the Postal Service to make a profit, the potential benefits of the legislation never fully materialized, given the Postal Service's current financial crisis.

In light of these concerns, the Subcommittee held its first postal related hearing of the 111th Congress, on March 25, 2009 to examine the extent of the Postal Service's financial challenges and to discuss measures the Postal Service was taking to address them. The hearing, entitled "Restoring the Financial Stability of the U.S. Postal Service: What Needs to be Done," took a detailed look at potential sources responsible for the Postal Service's declining profitability as well as at various short and long term strategies and options for reducing costs, improving efficiency and returning the Postal Service to financial solvency. The hearing also provided the Subcommittee an opportunity to question the Postal Service's Board of Governors on its approval of top Postal executives' bonus compensation packages, given the organization's dire financial situation.

Lastly, the hearing also considered the merits of H.R. 22, which was introduced by Representatives John McHugh and Danny K. Davis on January 6, 2009, in order to allow the Postal Service to pay its share of contributions for annuitants' health benefits out of the Postal Service Retiree Health Benefits Fund instead of from its operating budget, as required by PAEA. Following the hearing's

discussion on H.R. 22, the Subcommittee held a markup on the bill on June 24, 2009, and adopted by voice vote an amendment in the nature of a substitute, limiting relief to three years. On July 10, 2009 the Oversight and Government Reform Committee held a business meeting to consider H.R. 22. The Committee adopted the Subcommittee's amendment in the nature of a substitute by unanimous consent, and ordered H.R. 22 reported as amended, by voice vote. As approved, the measure would have afforded the Postal Service over \$6 billion in immediate financial relief.

On May 13, 2009 the Subcommittee continued its oversight of the Postal Service's financial situation by holding an additional hearing on the matter entitled "Nip and Tuck: The Impact of Current Cost Cutting Efforts on Postal Service Operations and Network." The hearing focused on the Postal Service's March 2009 announcement of plans to make several across-the-board cuts in service and operations to help downsize its infrastructure and reduce costs. During the hearing, the Postal Service discussed its intentions to achieve cost savings by consolidating excess capacity in the mail processing and transportation networks; realigning carrier routes; reducing overall workhours, halting construction of new postal facilities; renegotiating contracts with major suppliers; freezing Postal Service officer and executive salaries at 2008 pay levels; reducing travel budgets; and shortening post office hours. Collectively, these cost cutting efforts had the potential of saving the Postal Service about \$6 billion in FY 2009.

In addition to the two previously mentioned hearings on the Postal Service's financial situation, the Subcommittee, in conjunction with the full Oversight and Government Reform Committee, also held a hearing on April 15, 2010 entitled "Continuing to Deliver: An Examination of the Postal Service's Current Financial Crisis and its Future Viability." The hearing entailed an in-depth discussion on the Postal Service's recently unveiled new business plan, "Ensuring a Viable Postal Service for America: An Action Plan for the Future," which recommended such reforms as moving from a six to five day mail delivery schedule and restructuring the Postal Service's employee pension and health benefits obligations. The hearing also examined the findings of the Government Accountability Office's (GAO) report entitled "U.S. Postal Service: Strategies and Options to Facilitate Progress Toward Financial Viability," which most notably found the Postal Service's current business model to be unviable due to its inability to sufficiently reduce costs in response to continuing declines in mail volume and revenue. Lastly, the hearing also investigated assertions by the Postal Service's Inspector General that the Postal Service overpaid \$75 billion in Civil Service Retirement System's pension contributions.

In continuing to examine the Postal Service's current and future financial prospects, the Subcommittee held a joint hearing with the Senate Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security on June 23, 2010. This hearing, entitled, "Having Their Say: Customer and Employee Views on the Future of the U.S. Postal Service," provided customer and employee stakeholders an opportunity to discuss the economic difficulties currently facing the Postal Service

and to respond to plans put forth by postal management and GAO on the Postal Service's future viability.

(2) Facility and Network Consolidation

On July 29, 2009, the Subcommittee held an additional postal related hearing to examine the Postal Service's proposed initiative to combine station and branch postal facilities as well as other consolidation-related efforts such as mail delivery route adjustments. The hearing entitled "Making Sense of It All: An Examination of USPS's Station and Branch Optimization Initiative and Delivery Route Adjustments," provided the Subcommittee with an opportunity to take a detailed examination of the proposed facility consolidation initiative and explore the criteria USPS planned to use to guide its decisions; overall targeted savings; the timeline for implementation; and USPS's communication efforts with stakeholders. The hearing also explored related consolidation efforts such as USPS's approach to delivery route adjustments.

Although at the time of the hearing the Postal Service delineated its reasoning and plans to review 3,105 Postal stations and branches, by the conclusion of the vetting process, the Postal Service had only identified 144 stations and branches for closing or consolidation, thereby bringing into question its diligence in carrying out the initiative.

(3) Innovation and Revenue Generation

On November 5, 2009 the Subcommittee held a hearing entitled "More than Stamps: Adapting the Postal Service to a Changing World." The hearing examined what steps the Postal Service had taken since Congress passed the Postal Accountability and Enhancement Act of 2006 to use increased flexibility to grow revenue. Further, the hearing explored barriers or limitations to the Postal Service's efforts to innovate. Over the course of the hearing, the Subcommittee learned of several innovative services and product offerings, initiated by the Postal Service strategically aimed at growing revenue for the organization. These items ranged from the introduction *Standard Mail Volume Incentive Pricing Program* ("Summer Sale") in the summer of 2009, which as of October 29, 2009, had generated at least \$50 million in new revenue by encouraging major mailers via discounts to increase their use of mail during the traditionally low-volume summer period and to the introduction of the popular Priority Mail Flat Rate Box campaign.

Following the hearing, the Subcommittee requested a formal review from the GAO to study pioneering revenue initiatives and innovations of foreign Posts and their applicability to the US Postal Service. The Subcommittee expects GAO to complete its work on the report by February 2011.

(4) Postal Pricing and Worksharing Arrangements

In an ongoing effort to examine the nexus between the Postal Service's dismal financial condition and its current pricing system, on May 12, 2010, the Subcommittee held its first postal related hearing of the second session entitled, "The Price is Right, or is it? An Examination of USPS Workshare Discounts and Products that Do Not Cover Their Costs." Specifically the hearing discussed the March 29, 2010, Postal Regulatory Commission (PRC) issued Fiscal

Year 2009 Annual USPS Compliance Determination (ACD) report, which found that 30 postal workshare discounts actually exceeded their avoided costs. The PRC found that 17 of these discounts were justified under statutory provisions; however, it further found that the remaining 13 were not appropriately justified and must be realigned at the next general price adjustment. In light of these findings, the hearing explored the appropriateness and current impact of various workshare discounts on the Postal Service finances.

Additionally, the hearing discussed both the PRC's ACD and revelations contained in the Government Accountability Office's April 12, 2010 report entitled "U.S. Postal Service, Strategies and Options to Facilitate Progress Toward Financial Viability" that certain postal products do not cover their costs. The PRC found that, in the aggregate, all the products that do not cover their costs lost \$1.7 billion in FY 2009, with the two largest such products, Periodicals and Standard Mail Flats, losing \$642 million and \$616 million, respectively. The hearing revealed that although some postal products were appropriately priced below cost for public policy reasons, the Postal Service had intentions to establish more accurate pricing policies for of these "under-water" products mailings, especially given the current financial status of the Postal Service. Thus, the May 12, 2010 hearing served as a precursor to the Postal Services filing of its first exigent rate case with the PRC on July 6, 2010.

(5) House-Wide Postal Education Briefing Series

In January of 2010, immediately following the commencement of the second session of the 111th Congress, the Subcommittee, joined by both the majority and minority full Committee, launched the Postal 101—House-wide Education Briefing Series. The series of briefings were designed to provide updated general and legislative information to personal office staffers responsible for matters pertaining to the Postal Service, its employees, and the millions of mailing industry customers. The briefing series garnered the participation of over 100 Member offices and involved the representation of a wide variety of Postal related stakeholders, such as the Postal Service, the Postal Regulatory Commission, the Postal Service Office of Inspector General, the Congressional Research Service, the Government Accountability Office, major Mailer Organizations, as well as Postal Employee Unions and Management Associations. A summary of the five briefings conducted under the series is listed below:

- Postal 101A on January 26, 2010, entitled "Overview of Postal Issues, Briefing Expectations and Introduction of Postal Principals & Stakeholders."
- Postal 101C on February 25, 2010, entitled "Business as Usual: A Lesson in Postal Operations, Finance, Regulation & Oversight."
- Postal 101B on March 2, 2010 entitled "If Not the Taxpayer Then Who?:"
- Understanding the Perspective of Mailing Customers/Consumers."
- Postal 101D on March 9, 2010, entitled "Representing the Service in Postal Service: Issues from the Employee Viewpoint."
- Concluding briefing held for both House and Senate Staffers in CVC on March 12, 2010 where USPS unveiled its action plan for

the future and new business plan announced publicly on March 2, 2010.

(6) Legislation

Over the course of the 111th Congress the Subcommittee considered and/or approved several postal related legislative measures. On January 6, 2009, Representatives John McHugh and Danny Davis introduced H.R. 22 which was intended to provide the United States Postal Service (the Postal Service) temporary financial relief by allowing for payments for current retiree health benefits to be paid out of the Postal Service Retiree Health Benefits Fund from fiscal years 2009–2016. Under existing law (P.L. 109–435), the Postal Service is required to pay annually, through September 30, 2016 its share of contributions for annuitants' health benefits. These payments range from \$2 billion to \$4.2 billion annually.

The Subcommittee convened on June 24, 2009 to consider and markup H.R. 22. During the business meeting, Chairman Stephen Lynch offered an amendment which modified the total number of years in which the Postal Service would be permitted to defer payment for its share of contributions for the health benefits of current retirees to the trust fund. Instead of permitting eight years, worth of payments to be drawn from the Postal Service Retiree Health Benefits Fund, the amendment would only authorize OPM to pay the Postal Service's share of contributions for annuitants' health benefits out of the fund for fiscal years 2009, 2010 and 2011. Both amendment and the underlying bill were approved by voice vote and favorably reported out to the Full Committee. The Full Committee considered and approved H.R. 22 on July 10, 2009. The final House passed version of H.R. 22 was passed on September 15, 2009. At that time the bill was amended to provide the Postal Service financial relief by reducing its FY 2009 Postal Retiree Health Benefits payment from \$5.4 billion to \$1.4 billion. In accordance with PAEA, the Postal Service is required to pre-fund health insurance premiums for future retirees, which no other federal entity is required to do at such an accelerated rate.

To address concerns relating to ongoing and proposed postal facility closures, Rep. Albio Sires introduced H.R. 658, "Access to Postal Services" on January 22, 2009. While the Postal Service expressed opposition to the bill, the Subcommittee staff worked closely with senior Postal Service officials to decipher the current process for closing Postal Branches and Stations, in comparison to Post Offices. Moreover, aspects of H.R. 658 were discussed during the Subcommittee's July 29, 2009, hearing entitled "Making Sense of It All: An Examination of USPS' Station and Branch Optimization Initiative and Delivery Route Adjustments". Testimony was provided by the bill's sponsor Rep. Sires during the hearing. Further, to gain a better understanding of the issue, Subcommittee staff requested the Congressional Research Service conduct a study of retail facility closures. The report, entitled, "Post Office and Retail Postal Facility Closures: Overview and Issues for Congress," was issued on July 23, 2009, entered into the July 29, 2009 hearing record, and widely cited publicly by Subcommittee Members.

On March 2, 2009, H.R. 1251 was introduced by Rep. Anthony Weiner, to "amend title 39, United States Code, to provide that the United States Postal Service may not carry out a change-of-address

request unless it first receives a signed confirmation that the request was in fact made by or on behalf of the addressee.” The bill was referred to the Subcommittee on May 4, 2009. The Subcommittee and Rep. Weiner’s staff were briefed by both the Office of the Inspector General and the United States Postal Service on this issue.

On July 10, 2009, Subcommittee Ranking Member Jason Chaffetz introduced H.R. 3167, which would have allowed mail carriers to serve in temporary enumerator positions in connection with the 2010 decennial Census. Given issues related to timing and preparation of the 2010 census, the Subcommittee elected not to mark up H.R. 3167 during the 111th Congress. However, on December 1, 2009, Chairman Stephen Lynch and Ranking Member Jason Chaffetz submitted a request to GAO to study the various options for collaboration between the U.S. Census Bureau and the Postal Service in order to reduce costs and improve the efficiency of the 2020 Census. GAO expects to complete work on the study during the spring of 2011.

On May 24, 2010, Chairman Lynch introduced, H.R. 5368, the United States Postal Service Postal Inspectors Equity Act. This bill would apply provisions of law enforcement availability pay to postal inspectors and criminal investigators of the United States Postal Service Office of the Inspector General. This bill was favorably reported out of the Subcommittee on May 27, 2010 and out of the full Committee on September 23, 2010 by voice votes.

Chairman Lynch introduced, H.R. 5746, the United States Postal Service’s CSRS Obligation Modification Act of 2010 on July 15, 2010. This bill would prescribe the appropriate methodology for OPM to use in apportioning the liability between the Postal Service and Federal government for CSRS employees that served under both the former Post Office Department and the Postal Service. In 1971, The Postal Reorganization Act of 1970 (PRA or P.L. 91-375) established the Postal Service as an autonomous Federal entity and transferred the responsibilities of the Post Office Department (POD), a U.S. government agency, to the Postal Service. One of the requirements of the PRA was the continued participation of Postal Service in CSRS, thus ensuring continuity of pension coverage for postal workers. It was therefore necessary to determine how to allocate pension costs for pre-1971 service between the taxpayer-supported POD and the ratepayer-supported Postal Service. In allocating the pension costs, OPM used, and currently still uses, a particular actuarial methodology.⁹¹

H.R. 5746 directs OPM to utilize an actuarial methodology in accordance with the recommendation of an independent actuarial firm hired by the Postal Regulatory Commission as required by section 802(c) of the Postal Accountability and Enhancement Act. Under this revised methodology, the Federal government’s portion of an individual’s CSRS annuity will be based on the CSRS benefit accrual formula and the conventional individual’s “high-3” average salary. This legislation ensures that OPM uses a methodology to apportion the benefit liabilities between the taxpayer-supported POD and the ratepayer-supported Postal Service that is recognized

⁹¹ OPM’s current practice for apportioning benefit liabilities between the Federal Government and the Postal Service uses the Final Post Office Department salary to determine Federal Government’s share.

and codified by the Financial Accounting Standard Board. Any postal surplus created as a result of this bill would be transferred to the Postal Retiree Health Benefits Fund. This bill was favorably reported out of the Subcommittee on July 21, 2010 by a roll call vote of 8–1.

(7) Reports

The following list highlights various postal related reports requested and/or received by the Subcommittee during the 111th Congress:

- On April 10, 2009, amid media reports and concerns about the Postal Service's potential wasteful spending, the Subcommittee sent a request to the Postal Service Office of Inspector General to examine U.S. Postal Service's housing relocation policy. As a result of the IG's investigation, the Postal Service's relocation policy was amended to be more restrictive and to require more accountability and standardization of the benefit;
- On June 9, 2009, Chairman Lynch, along with Representatives Danny K. Davis and John McHugh requested the PRC to conduct an analysis of the different approaches employed by the U.S. Postal Service Office of Inspector General (OIG) and the Office of Personnel Management (OPM) to calculate the present value of the Postal Service's obligations related to the Postal Service Retiree Health Benefits Fund (Fund). The study was submitted to the Subcommittee on July 30, 2009 and urged OPM to use a graded health care inflation trend rate and declining workforce assumptions for estimating the value of the Postal Service's future retiree health benefits obligations;
- On November 9, 2009, Chairman Lynch requested that GAO conduct a study on international posts and how they are dealing with declining mail volumes as well as a study on the potential effects of five-day delivery on major mailers. The Subcommittee expects GAO to complete its work on both reports by February 2011;
- On November 23, 2009, Chairman Lynch and Ranking Member Chaffetz requested the GAO to conduct a study on the feasibility of various options for collaboration between the U.S. Census Bureau and the Postal Service to reduce the costs and improve the accuracy and efficiency of the 2020 Census. The study takes into account such factors as personnel, physical assets (e.g. facilities, distribution centers, and vehicles) and technological expertise. GAO initiated work on the project in October 2010; and
- In accordance with PAEA, on April 12, 2010, the Subcommittee received the GAO issued report on the future financial viability of the United States Postal Service. In sum, the report entitled "U.S. Postal Service: Strategies and Options To Facilitate Progress Toward Financial Viability," found that returning the Postal Service to financial solvency in the future requires (1) reducing compensation and benefit costs, (2) reducing other operations and network costs, and (3) generating revenues through product and pricing flexibility.

(8) Other Matters

On July 31, 2009, Subcommittee staff met with the Postal Regulatory Commission officials on matters relating to docket N2009–1, the Station and Branch Optimization Initiative. As a follow-up to the meeting, Chairman Lynch filed a formal letter with the PRC on October 5, 2009, expressing concern that the Postal Service carefully consider employee, stakeholder, and public opinion in finalizing its facility optimization initiative and that it executes closures and consolidations in a manner that is fair and transparent, particularly regarding selection criteria, notification, public participation, and appeals.

Further, on March 19, 2010 the Subcommittee, along with Representatives Danny Davis and Subcommittee Ranking Member Jason Chaffetz reconstituted the Congressional Postal Caucus, which served as an informal, bipartisan group of Members dedicated to maintaining and strengthening the Postal Services in the United States, and to educating other Members and staff on the postal industry and current related issues.

Additionally, the Subcommittee hosted a series of briefings and brainstorming sessions with minority, full Committee and Senate counterparts on the potential of creating a BRAC-type Commission to streamline the Postal Service’s processing and retail network. These activities included:

- Brainstorming Session on July 7, 2010.
- Official Briefing by USPS on their efforts and plans to consolidate their mail processing network on July 23, 2010.
- Official Briefing by CRS staff on the government’s experience with the military BRACs and potential application of a BRAC-type Commission to consolidate Postal Service facilities on July 23, 2010.
- Official Briefing by GAO on their findings with respect to the military BRACs and the potential application of a BRAC-type Commission to consolidate Postal Service facilities on July 29, 2010.
- Official Briefing by USPS–OIG on its studies, investigations, and audits on the consolidation of mail processing and retail networks on September 1, 2010.
- Official Briefing by USPS on their efforts and plans to consolidate their retail network on September 24, 2010.

Lastly, on September 3, 2010, the Subcommittee developed correspondence, jointly with full Committee Chairman Edolphus Towns, to the House Appropriations Committee requesting deferment of a \$5.5 billion payment due to the Postal Retiree Health Benefits Fund on September 30, for inclusion in the initial 2010 continuing resolution.

c. District of Columbia

In carrying out this aspect of our jurisdictional authority, the Subcommittee worked closely with Delegate Eleanor Holmes Norton, during the 111th Congress to hold hearings and consider legislation that had a direct impact or connection between the municipal affairs of the District of Columbia and the federal government.

(1) Legislative and Budget Autonomy

Continual calls to advance the concepts of home-rule and greater self-governance in the nation’s capitol led the Subcommittee to hold

a legislative hearing to consider proposals designed to grant greater autonomy to the local District government. Entitled, “Greater Autonomy for the Nation’s Capital,” the hearing was held on November 18, 2009 and examined H.R. 960, the “District of Columbia Legislative Autonomy Act of 2009” and H.R. 1045, the “District of Columbia Budget Autonomy Act of 2009.” Taken together, these two measures would promote greater self-governance in the District by amending the Home Rule Act to eliminate congressional review of newly-passed District laws as well as to remove federally-imposed mandates over the District’s local budget process, financial management and borrowing authority. Both measures were introduced by Delegate Eleanor Holmes Norton as part of her “Free and Equal D.C.” series of bills designed to address inappropriate restrictions placed on the District by the federal government.

Given the significance of these issues, the hearing garnered the participation of the District’s chief elected officials, such as Mayor Adrian Fenty, D.C. Council Chairman Vincent Gray and the City’s Chief Financial Officer Natwar Gandhi. During the hearing, witnesses discussed the governing challenges, added costs and unintended consequences that certain federal restrictions currently have on the District’s ability to govern effectively and efficiently. For example, testimony revealed that requiring the District’s local budget to be approved by Congress as well as adhere to the federal October 1–September 30 fiscal year cycle sets the District apart from most other local and state jurisdictions, which traditionally follow a July 1–June 30 fiscal cycle. Witnesses testified that enactment of H.R. 1045 would help to remove restrictions that presently harm the District by preventing its elected officials from planning appropriately on school preparation and from relying on more timely revenue estimates in establishing the City’s future budget.

The hearing also revealed concerns that the current congressional review period for D.C. passed legislation causes the City Council to operate using a cumbersome and complicated policy-making process whereby it must pass emergency, temporary and permanent legislation, in some cases, in order to prevent gaps in the application of its laws during the congressional review period. Witnesses contended that passage of H.R. 960 would remedy these problems. Although the Subcommittee did not mark up these two bills during the 111th Congress, the hearing did spur consideration and conversations on including language granting the District greater control over their local budget as part of the District’s FY 2011 appropriations provisions.

*(2) Environmental Restoration—Spring Valley Formerly
Used Defense Site*

At the request of Delegate Eleanor Holmes Norton, on June 10, 2009, the Subcommittee held an oversight hearing to examine developments in the Environmental Restoration Program at Spring Valley—a 661-acre section of northwest Washington, DC that was used by the U.S. Army for the development and testing of chemical agents, equipment and mutations during the World War 1 era. The hearing focused on the restoration program’s progress, discussed the criteria that will be used in declaring the site clean of environmental/health contamination, and assessed the level of trans-

parency and/or community engagement associated with the Spring Valley cleanup project.

Despite the extensive work performed and the apparent progress made in the removal of environmental and health hazards stemming from the Spring Valley Formerly Used Defense Sites (FUDS), the hearing discovered that many local Spring Valley residents continued to have significant concerns about the program's overall effectiveness, scope, transparency, and projected completion date. For instance, residents and local officials were especially concerned about the Corps announced plans to complete their physical investigation and field work at the Spring Valley FUDS by the end of calendar year 2010. Testimony at the hearing cited previous instances where the Corp declared the site clean by issuance of a "No Further Action Record of Decision," which was overturned, shortly thereafter, upon the discovery of additional munitions or contaminations that forced the Corps to reconvene the Spring Valley FUD Clean-up project. While the hearing resulted in the Corps adopting more transparent public communication practices and committing to perform any additional future field work on an as needed basis, given the history of the project and the potential health and environmental implications associated, the Subcommittee continues to closely monitor developments in the Corps' Environmental Restoration Program at Spring Valley.

(3) Criminal Justice

In accordance with the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act), the federal government has oversight authority and fiduciary control over aspects of the District of Columbia's criminal justice system, such as the D.C. Courts, Pretrial Services Agency, Public Defender Service, and responsibility for probation, parole and supervised release of adult felons convicted under the D.C. Criminal Code. In light of this responsibility, the Subcommittee conducted ongoing oversight of the aforementioned elements of the District's criminal justice system during the 111th Congress. On Tuesday, September 22, 2009, the Subcommittee held the first of four hearings on DC Code felons. The National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act) transferred the responsibility for, and the costs of, certain state criminal justice functions, such as the housing, parole and supervised release of from the District of Columbia to the federal government. The purpose of the September 22nd hearing was to examine the impact of the United States Parole Commission (USPC) on public safety in the District of Columbia. Currently, the District of Columbia is the only jurisdiction where control over its local criminal code offenders is determined by the policies and practices of a federal agency, the USPC.

The National Capital Revitalization and Self-Government Improvement Act of 1997 (The Revitalization Act) granted the USPC chief responsibility for parole and supervised release decisions for D.C. Code felons. The USPC's mission is to promote public safety and to achieve justice and fairness in the exercise of its authority to release and supervise offenders under its jurisdiction.

The Revitalization Act's mandate that all D.C. Code felons be sentenced according to a determinate sentencing system has caused

an important shift in the responsibilities of the USPC. As part of a determinate sentence, a court may impose post-imprisonment supervision. Unlike parole, the USPC has no role in granting supervised release. However, the agency does have the authority to make initial parole determinations and to set the conditions of supervised release and revocations for offenders. During the hearing, the Court Services and Offender Supervision Agency discussed the Correctional Treatment Facility women's pilot program. This Residential Substance Abuse Treatment program is available to 20 female inmates who meet the program's basic eligibility criteria. Parole and supervised release violators in the jail are eligible to participate provided they do not have a violent or weapons-related conviction and fall within the USPC's Category One violations.

The Subcommittee followed up this hearing with a February 3, 2010 oversight hearing on the effects community corrections centers and halfway houses have on public safety and prisoner reentry in the District of Columbia. The hearing also examined whether BOP, or its contractors, communicate with District residents regarding citing decisions, whether the BOP takes into account residents' citing concerns awarding contracts, and whether the BOP considers the distribution of halfway houses within and among District neighborhoods when awarding contracts. District of Columbia felons convicted under the DC Criminal Code are housed by the Federal Bureau of Prisons (BOP). Halfway houses are commonly referred to as Community Corrections Centers (CCCs) by the BOP. The BOP contracts with private entities to operate CCS on behalf of BOP inmates nearing the end of their sentence. The District has three BOP affiliated halfway houses, the Fairview Adult Rehabilitative Center, Hope Village, and Efforts from Ex-Convicts Halfway House. The Subcommittee heard testimony from the CEO of Fairview as well as the CEO of Hope Village. A former resident of Hope Village also testified at the hearing.

On Wednesday, May 5, 2010, the Subcommittee held a hearing to examine the criteria used to determine the placement of DC Code Offenders and the rehabilitation and reintegration challenges felons face as a result of being imprisoned far away from their homes and support networks. Approximately 5,700 DC Code felons are housed in 115 BOP facilities located in 33 states and the District of Columbia. Witness testimony stressed that prisoners who maintain contact with their family members have lower recidivism rates than those who do not. Following the hearing, the Subcommittee received an update on discussions between the BOP and the District of Columbia Department of Corrections (DOC) to have certain DC inmates in BOP custody placed in a DOC facility. BOP is currently incarcerating 40 DC offenders serving short sentences at the DOC, and plan to increase that number to 200.

Due to the unique rehabilitation needs of female DC Code felons, the Subcommittee also held a hearing on July 27, 2010 to examine how the BOP, Court Services and Offender Supervision Agency, various local agencies, and community service providers address their needs both during incarceration and after releases. Witness included Our Place, a non-profit organization in DC which helps formerly and currently incarcerated women. During the hearing, Ms. Norton urged CSOSA to have a greater presence in prisons much like Our Place.

(4) *Washington Metropolitan Area Transit Association*

On Wednesday, April 29, 2009, the Subcommittee held its first oversight hearing on the Washington Metropolitan Area Transit Association (WMATA). The hearing was convened to cover a range of topics related WMATA including its financial condition, its proposed operational and service changes, and its safety and security initiatives. The hearing involved a detailed discussion of WMATA's financial challenges, particularly in light of the economic crisis, and its Capital Improvement Program.

After the June 22, 2009 Red Line Metrorail collision, the Subcommittee convened its second Metro-related hearing entitled, "Back on Track: WMATA Red Line Metrorail Accident and Continual Funding Challenges" on Tuesday, July 14, 2009. The hearing focused on the progress WMATA had made its investigation following the June 22 accident and the steps that had been taken to ensure the safety of all Metro riders and employees in the aftermath of the collision. At the time of the hearing, reports by various entities including the Federal Transit Administration (FTA), the National Transportation Safety Board (NTSB) and the Tri-State Oversight Committee (TOC) pointed to a deficient safety culture as a key contributor to the Red Line collision.

The June 14, 2009 hearing also addressed WMATA's oversight structure. At that time, it was made clear to the Subcommittee that although several entities are responsible for overseeing safety at WMATA—including the NTSB, the FTA, and the TOC—none of the agencies have the legal authority to compel WMATA to address any findings or recommendations. Notably, the hearing also brought to light concerns that WMATA's State Safety Oversight Agency, the TOC, was underfunded, hamstrung by a complex decision making process, and lacked enforcement authority. These findings were later echoed in the FTA's March 4, 2010 Final Audit Report of the TOC and WMATA.

In light of this information, the Subcommittee had multiple discussions with the TOC and the FTA during the winter of 2009 and considered drafting legislation to increase the TOC's funding levels and enhance its enforcement authority over WMATA. Although the Subcommittee did not introduce legislation, it would like to note that on April 20, 2010, the District of Columbia, the State of Maryland, and the Commonwealth of Virginia collectively released a White Paper outlining a two-phase process to enhance the effectiveness of the TOC and address concerns regarding its funding, organization, and authority.

On Thursday, September 23, 2010 the Subcommittee held its third and final Metro hearing entitled, "Moving Forward After the NTSB Report: Making Metro a Safety Leader." The hearing explored the safety findings and recommendations made by the National Transportation Safety Board in its July 27, 2010 Railroad Accident Report on the June 22, 2009 Red Line collision. The hearing discussed the steps WMATA took to enhance its overall safety culture and to remedy the concerns raised in the NTSB Report. The hearing spent considerable time discussing WMATA's efforts to cultivate a robust safety culture through initiatives such as an anonymous safety hotline and the development of a non-punitive reporting system. During the hearing, it was made clear to the

Subcommittee that WMATA has made substantive efforts to be a safer transit system but that there is still much work to be done.

Continued oversight of WMATA's financial condition, its operational and service challenges, and its safety and security initiatives is essential to ensuring that WMATA is operating at the highest levels of service, safety, and reliability. More specifically, it is imperative that Congress maintain close oversight of WMATA's efforts to address the safety findings and recommendations contained in both the FTA's March 4, 2010 Final Audit Report and the NTSB's July 27, 2010 Railroad Accident Report, its efforts to replace Interim General Manager Richard Sarles by the end of 2010, its economic situation as it works to keep its aging infrastructure up to date and in a state of good repair, and the ongoing initiatives to strengthen and improve WMATA's State Safety Oversight Agency, the TOC.

(5) Lead Contamination and D.C. Water

Lead contamination of the District's drinking water has been a longstanding issue for the Subcommittee since the 2000–2003 lead-in-the-water crisis. To this end, on July 10, 2010 the Subcommittee held a hearing entitled "Lead Exposure in D.C.: Prevention, Protection, and Potential Prescriptions." The purpose of the hearing was to examine how the District and federal governments can reduce the exposure of D.C. residents, particularly infants and young children, to lead, as well as to determine what steps, if any, should be taken to identify and treat children previously exposed. The hearing was deliberately structured to take a broad, prospective look at lead leeching in D.C. rather than repeat prior oversight work on this issue or assign blame to D.C. or federal government agencies for previous missteps. The hearing also touched upon concerns raised by a House Science and Technology Subcommittee report that suggested the CDC used faulty assumptions and flawed data in confronting the lead-in-the-water issue in D.C. and in other cities around the country.

The hearing involved testimony from Ileana Arias, PhD, Principal Deputy Director, Centers for Disease Control and Prevention, Thomas P. Jacobus, General Manager, Washington Aqueduct Division, U.S. Army Corps of Engineers, George S. Hawkins, General Manager, D.C. Water and Sewer Authority, Christophe A. G. Tulou Acting Director, District Department of the Environment, Dr. Ellen Silbergeld, Professor, Johns Hopkins Bloomberg School of Public Health. The major takeaways from the hearing included CDC's commitment to develop enhanced and automatic reporting requirements for its Childhood Lead Poisoning Prevention Program and DC Water's (formerly known as DC Water and Sewer Authority) plans to strengthen its public outreach and communication efforts to educate households on identifying potential lead hazards and the pro and cons of partial lead line replacements. The hearing also revealed widespread agreement amongst the participants on the need for legislation that would mandate the testing of all children under the age of 6 for lead exposure, similar to current statutorily required childhood immunizations. The Subcommittee expects to continue monitoring the progress of local and federal government efforts to mitigate lead contamination and ensure that any resi-

dents exposed to lead receive timely and accurate information and interventions.

a. Legislation

During the 111th Congress the Subcommittee considered and/or approved a number of District of Columbia related bills. For example, on March 24, 2010, the Subcommittee convened to consider H.R. 3913, the “Major General David F. Wherley, Jr. District of Columbia National Guard Retention and College Access Act.” Introduced by Delegate Eleanor Holmes Norton on October 22, 2009, H.R. 3913 directs the Mayor of the District of Columbia to establish a District of Columbia National Guard by providing financial assistance to enable members of the National Guard of the District of Columbia to attend undergraduate, vocational and technical courses. After consideration on the bill, the Subcommittee favorably reported H.R. 3913 to the full Committee, which considered and approved the measure shortly thereafter on April 14, 2010. H.R. 3913 was adopted by the full House on June 28, 2010. The bill was received in the Senate on June 29, 2010.

Further, on May 27, 2010, the Subcommittee held a business meeting to consider H.R. 5367, the D.C. Courts and Public Defender Service Act of 2010. Introduced on May 24, 2010, by Delegate Eleanor Holmes Norton, H.R. 5367 is designed to enhance the administrative authorities of both the D.C. Courts and the Public Defender Services of the District of Columbia. In short, H.R. 5367 amends Title 11 of D.C. code to grant the chief judge of the District of Columbia Court of Appeals the authority to hold biennially the Courts judicial conference and to require active magistrate judges to attend such conferences. Additionally, H.R. 5367 would authorize the chief judge of the Superior court or the court of Appeals to enter an order or orders to delay or toll any and all deadlines imposed by any statute or rule of procedure in the event of a natural disaster, terrorist attack or other emergency situation. Lastly, H.R. 5367 permits the Public Defender Service for the District of Columbia (PDS) to purchase, out of their existing salaries and expenses account, professional liability insurance for its attorneys, staff, and board members. PDS cannot secure representation from either the United States or the District of Columbia because PDS’s lawyers litigate exclusively against the United States or the District of Columbia, which creates an inherent conflict of interest. The cost of professional liability and malpractice insurance for PDS is approximately \$50,000 per year, which PDS can absorb at current funding levels. H.R. 5367 was approved by the Subcommittee on May 24, 2010 by voice vote. On September 23, 2010, the full Committee also considered and ordered the bill to be reported to the full House via voice vote.

During the second session of the 111th Congress, the Subcommittee also considered and favorably reported H.R. 5702, which was introduced on July 1, 2010 by Delegate Eleanor Holmes Norton. Upon enactment, H.R. 5702 would shorten the time that a vacant ward specific seat would be left open in the D.C. Council, thereby ensuring more continuous representation for the citizens of the District of Columbia. Under current law, the D.C. Board of Election and Ethics must hold a special election to fill such a vacancy on the Council within 114 days after the vacancy occurs. Due

to this law there have been periods in the history of the Council where District residents remained unrepresented for nearly four months at a time. Therefore, legislation was introduced and passed by the Council to shorten the time period from 114 days to 70 days. As it stands, the 114 day rule is enforced by the Home Rule Act, a federal statute. Thus, H.R. 5702 amends Section 401(d)(1) of the Home Rule Act by striking 114 day stipulation and replacing it with a 70 day period. H.R. 5702 was considered and reported favorably by the full Committee on September 23, 2010.

Other D.C. related legislative matters considered and examined by the Subcommittee over the course of the 111th Congress include:

- H.R. 960: District of Columbia Legislative Autonomy Act of 2009;
- H.R. 1045: District of Columbia Budget Autonomy Act of 2009;
- H.R. 1345: District of Columbia Hatch Act Reform Act of 2010;
- H.R. 2092: Kingman and Heritage Islands Act of 2009;
- H.R. 5103: 2010 District of Columbia Omnibus Authorization Act;
- H.R. 5544: To promote the development of the Southwest waterfront in the District of Columbia; and
- H.R. 5703: To permit the advertising and sale of lottery tickets within certain areas of the District of Columbia.

(7) Reports

On May 26, 2010, the Subcommittee received notification that the Architect of the Capitol (AOC), in partnership with the District of Columbia (DC), had identified suitable property to satisfy the requirements of Public Law 109–396, the Federal and District of Columbia Government Real Property Act of 2006—Section 204, Conveyance to the Architect of the Capitol. The property identified for transfer consists of 12,000 acres of unimproved privately owned land within a larger parcel to be developed in the near future. The property is located at 4400 Rena Drive, Morningside, Maryland.

2. Subcommittee Proceedings

Business meeting to consider H.R. 626, the “Federal Employees Paid Parental Leave Act of 2009” (March 25, 2009).

Hearing on the financial stability of the USPS, entitled, “Restoring the Financial Stability of the U.S. Postal Service: What Needs to be Done?” (March 25, 2009).

Hearing on trends and characteristics of the present day federal workforce, entitled, “Public Service in the 21st Century: An Examination of the State of the Federal Workforce” (April 22, 2009).

Hearing on oversight of the Washington Metropolitan Area Transit Authority (WMATA)’s operation of Metrorail Service, Metrobus service and MetroAccess paratransit service. (April 29, 2009).

Hearing on the status of agencies’ occupational safety and health protocols responsible for protecting federal workers from communicable diseases, such as the H1N1 virus, entitled, “Protecting the Protectors: An Assessment of Front-line Federal Workers and the Swine Flu Outbreak” (May 14, 2009).

Business meeting to consider H.R. 22, the “United States Postal Service Financial Relief Act of 2009” and H.R. 1345, the “District of Columbia Hatch Act Reform Act of 2009.” (May 20, 2009).

Hearing on status of the Postal Service’s cuts in operations and services, as well as short- and long-term plans to reduce network costs and improve efficiency, entitled, “Nip and Tuck: The Impact of Current Cost Cutting Efforts on Postal Service Operations and Network” (May 20, 2009).

Hearing on oversight of the Environmental Restoration Program at Spring Valley—a 661 acre formerly used defense (FUD) site for the development and testing of chemical agents, equipment and munitions during World War 1 (June 10, 2009).

Hearing on the Federal Employees Health Benefits Program’s (FEHBP) drug benefit and the impact that the lack of pricing transparency has on the Office of Personnel Management’s (OPM) ability to evaluate the overall value of these benefits, entitled, “FEHBP’s Prescription Drug Benefits: Deal or No Deal?” (June 24, 2009).

Hearing on legislation designed to ensure equal treatment to lesbian and gay federal civilian employees by providing same sex partners access to benefits available to a married federal employee and his or her spouse, entitled “H.R. 2517, the “Domestic Partnership Benefits Obligation Act of 2009” (July 8, 2009).

Hearing on the steps WMATA undertook following the June 22nd Red Line Metrorail accident to ensure the safety of riders and employees, and to enhance Metrorail automated systems, equipment, and safety policies and procedures entitled, “Back on Track: WMATA Red Line Metrorail Accident and Continual Funding Challenges” (July 14, 2009).

Business meeting to consider H.R. 2517, the “Domestic Partnership Benefits and Obligations Act of 2009” (July 30, 2009).

Hearing on the Postal Service’s plans to consolidate its retail facilities, entitled “Making Sense of It All: An Examination of USPS’s Station and Branch Optimization Initiative and Delivery Route Adjustments” (July 30, 2009).

Hearing on existing policies and benefits available to federal employees who serve in designated combat areas, entitled, “A Call to Arms: A Review of Benefits for Deployed Federal Employees” (September 16, 2009).

Hearing on the responsibility of the United States Parole Commission in ensuring public safety in the District of Columbia, entitled, “The Local Role of the United States Parole Commission (USPC): Increasing Public Safety, Reducing Recidivism, and Using Alternatives to Re-incarceration in the District of Columbia” (September 22, 2009).

Legislative drafting forum on enhancing the Federal Employees Health Benefits Program’s (FEHBP) drug benefit, entitled, “Prescribing the Right Solutions: A Discussion on Improving FEHBP’s Drug Benefit” (September 29, 2009).

Hearing on issues confronting the Federal Retirement Thrift Investment Board as it upgrades the Thrift Savings Plan’s IT infrastructure, security capabilities, and responds to multiple legislative initiatives, entitled, “Managing the Thrift Savings Plan to Thrive” (November 3, 2009).

Hearing on what steps the Postal Service has taken since Congress passed the Postal Accountability and Enhancement Act of 2006 to use its increased flexibility to grow revenue, entitled “More than Stamps: Adapting the Postal Service to a Changing World” (November 5, 2009).

Hearing on legislative proposals designed to grant the District of Columbia’s locally elected officials greater autonomy to govern, entitled, “Greater Autonomy for the Nation’s Capital, an examination of H.R. 960, the “District of Columbia Legislative Autonomy Act of 2009” and H.R. 1045, the “District of Columbia Budget Autonomy Act of 2009” (November 18, 2009).

Hearing on the effectiveness of residential re-entry centers or “halfway houses” on public safety, prisoner reentry, and recidivism in the District of Columbia, entitled, “Half Way Home to the District: The Role of Halfway Houses in Reducing Crime and Recidivism in the Nation’s Capital” (February 3, 2010).

Hearing on legislative proposal designed to strengthen Federal Employees Health Benefits Program’s drug benefit, entitled, “H.R. 4489, “The Federal Employees Health Benefits Program (FEHBP) Prescription Drug Integrity, Transparency, and Cost Savings Act” (February 10, 2010).

Hearing on the status of and responsibility for agency and postal building security assessments, as well as the level of physical and perimeter security, entitled, “An Examination of Federal Employee Workplace Safety and Security” (March 16, 2010).

Hearing on legislative proposal entitled, “H.R. 4735, a bill “[t]o amend title 5, United States Code, to provide that persons having seriously delinquent tax debts shall be ineligible for Federal employment” (March 17, 2010).

Business meeting to consider H.R. 1722, the “Telework Improvements Act of 2009”; H.R. 3913, the “Major General David F. Wherley, Jr. District of Columbia National Guard Retention and College Access Act”; H.R. 4489, the “FEHBP Prescription Drug Integrity, Transparency, and Cost Savings Act”; and H.R. 4865, the “Federal Employees and Uniformed Services Retirement Equity Act of 2010” (March 24, 2010).

Hearing, conducted jointly with full Committee on Oversight and Government Reform, on the financial condition of the U.S. Postal Service (USPS) as well as recent reports issued by the Government Accountability Office and USPS on the future viability and business model of the USPS, entitled, “Continuing to Deliver: An Examination of the Postal Service’s Current Financial Crisis and its Future Viability” (April 15, 2010).

Hearing on criteria used to determine the placement of D.C. Code offenders post-conviction, entitled, “Housing D.C. Code Felons Far Away From Home: Effects on Crime, Recidivism and Reentry” (May 5, 2010).

Hearing on the appropriateness and current financial impact of the Postal Services various pricing policies and workshare discounts, entitled, “The Price is Right, or is it? An Examination of USPS Workshare Discounts and Products that Do Not Cover Their Costs” (May 12, 2010).

Business meeting to consider, H.R. 3243, a bill to amend section 5542 of title 5, United States Code, to provide that any hours worked by Federal firefighters under a qualified trade-of-time ar-

rangement shall be excluded for purposes of determinations relating to overtime pay; H.R. 3264, the “Federal Internship Improvement Act”; H.R. 5367, the “D.C. Courts and Public Defender Service Act”; and H.R. 5368, the “United States Postal Service, Postal Inspectors Equity Act” (May 27, 2010).

Hearing on regulatory changes to hiring, such as shared registers, the upgraded USAJOBS website, and the Veterans’ Employment Initiative, as well as proposed legislative initiatives, entitled, “Jobs, Jobs, Jobs: Transforming Federal Hiring” (May 19, 2010).

Hearing on how the District and federal governments can reduce exposure of D.C. residents, particularly infants and other children, to lead in the city’s water and from other sources, entitled, “Lead Exposure in D.C.: Prevention, Protection, and Potential Prescriptions” (June 15, 2010).

Hearing, conducted jointly with the Senate Subcommittee on Federal Management, Government Information, Federal Service, and International Security on reforms to the Postal Service’s business model, entitled, “Having Their Say: Customer and Employee Views on the Future of the U.S. Postal Service” (June 23, 2010).

Hearing on existing temporary hiring authorities, associated agency regulations, and the resulting impact on temporary employees’ status and benefit offerings, entitled, “Temporary Employee Practices: How Long Does Temporary Last?” (June 30, 2010)

Business meeting to consider H.R. 5522, Federal Supervisor Training Act of 2010; H.R. 5702, a bill to amend the District of Columbia Home Rule Act to reduce the waiting period for holding special elections to fill vacancies in membership of the Council of the District of Columbia; and H.R. 5746, the “United States Postal Service’s CSRS Obligation Modification Act of 2010” (July 21, 2010).

Hearing on safety standards and practices employed by Federal agencies to ensure that employees are not exposed to excessive amounts of carcinogens and ionizing radiation and to reduce workplace injuries and accidents, entitled, “Are Agencies Playing It Safe and Secure: An Examination of Worker Protections Pre- and Post-Injury” (July 21, 2010).

Hearing on issues and challenges confronting female D.C. Code felons, entitled, “Female D.C. Code Felons: Unique Challenges in Prison and At Home” (July 27, 2010).

Hearing on various safety findings and recommendations from the National Transportation Safety Board’s (NTSB) Railroad Accident Report on the June 22, 2009 Metrorail collision, entitled, “Moving Forward After the NTSB Report: Making Metro a Safety Leader” (September 23, 2010).

3. Other Subcommittee Proceedings/Matters

(a) Federal Workforce

Official Briefing on the state of security clearance processing by OPM’s Federal Investigative Services Division (April 27, 2009).

Official Briefing on personnel practices regarding the H1N1 outbreak at the Department of Homeland Security by U.S. Customs and Border Patrol (April 29, 2009).

Official Briefing on the Federal Long-Term Care Insurance Program (FLTCIP) by OPM (May 26, 2009).

Official Briefing on the burrowing in of political appointees in the civil service by GAO (June 18, 2009).

Official Briefing on FLTCIP contracting issues by OPM (June 19, 2009).

Official Briefing on FLTCIP by GAO (September 21, 2009).

Official Briefing on OPM agency re-organization (September 29, 2009).

Official Briefing on hiring reforms by OPM (October 22, 2009).

Official Briefing on political to career conversions by GAO (November 9, 2009).

Official Briefing on Fiscal Year 2011 OPM budget by OPM (February 18, 2010).

Official Briefing on Federal Protective Service by Department of Homeland Security (March 10, 2010).

Official Briefing on NSPS transition by NSPS Transition Office Director John James (March 11, 2010).

Official Briefing by Internal Revenue Service on H.R. 4735 (March 12, 2010).

Official Briefing by USAID on personnel authorities (April 9, 2010).

Official Briefing on status of Defense Civilian Intelligence Personnel System by Department of Defense (May 7, 2010).

Official Briefing on hiring by Department of Homeland Security (May 26, 2010).

Official Briefing on federal employee pay by OPM (July 12, 2010).

Official Briefing on Pre-Existing Condition Insurance Plan by OPM and Department of Health and Human Services (July 16, 2010).

Official Briefing on Federal Employee Group Life Insurance (FEGLI) Program by Metlife (August 3, 2010).

Official Briefing on FEGLI by OPM (August 9, 2010).

Official Briefing on USAJOBS by OPM (September 2, 2010).

Official Briefing on FEHBP plan year 2011 (October 1, 2010).

Official Briefing on retirement claims processing by OPM (October 26, 2010).

(b) Postal Service

Official Briefing by OPM regarding USPS' CSRS pension obligation (April 8, 2010).

Official Briefing by PRC regarding findings in its 2009 Annual Compliance Determination (April 12, 2010).

Official Briefing by OMB regarding potential relief on retiree health benefits prepayment obligations and potential modification of USPS' CSRS pension obligation (May 12, 2010).

Official Briefing by USPS on its legislative proposals regarding its action plan and new business model (May 17, 2010).

Official Briefing by PRC-OIG on its current activities (May 20, 2010).

Official Briefing by USPS-OIG on an objective modeling approach to realigning postal retail network (June 9, 2010).

Official Briefing by USPS on its legislative proposals regarding modifying the USPS' CSRS pension obligation (June 15, 2010).

Official Briefing by OPM regarding USPS' CSRS pension obligation and Board of Actuaries' responsibilities (June 24, 2010).

Official Briefing with Postal Regulatory Commission and The Segal Company on their findings with respect to the USPS' CSRS pension obligation (July 13, 2010).

4. Resolutions and Postal Naming Measures

During the 111th Congress, the Subcommittee received over 420 referrals of resolutions and postal naming measures. The Committee marked up 125 resolutions and 76 postal namings.

C. SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, ORGANIZATION, AND PROCUREMENT

The Subcommittee on Government Management, Organizations, and Procurement has jurisdiction over the management of government operations, reorganizations of the executive branch, and federal procurement. In the 111th Congress, Rep. Diane E. Watson served as Chairman and Rep. Brian P. Bilbray as Ranking Member.

1. Oversight

"The Roles and Responsibilities of Inspectors General within Financial Regulatory Agencies" (March 25, 2009). The hearing examined the roles and responsibilities of Inspectors General (IGs) at agencies charged with regulating the financial marketplace. Particular topics of interest for the hearing included: the strategic challenges facing IGs due to the emerging economic crisis in the financial markets; the independence of IGs when appointed by agency chairmen or commissioners; and the allocation of resources for IGs charged with overseeing financial market regulators.

In addition, the hearing focused on legislation sponsored by Congressman John Larson, H.R. 885, the Improved Financial and Commodities Markets Oversight and Accountability Act. The bill would elevate IGs at the following agency appointed Designated Federal Entities (DFE) financial market regulators as presidential IGs pursuant to Section 3 of the IG Act: the Board of Governors of the Federal Reserve System; Commodity Futures Trading Commission; National Credit Union Administration; Pension Benefit Guaranty Corporation; and the Securities and Exchange Commission. These IGs would subsequently have the same authorities and reporting requirements as other financial regulator IGs, such as the Department of the Treasury, the Federal Deposit Insurance Corporation, and the SIG-TARP.

Witnesses: The Honorable John B. Larson, Member of Congress; Mr. H. David Kotz, Inspector General, U.S. Securities and Exchange Commission; Ms. Elizabeth A. Coleman, Inspector General, Board of Governors of the Federal Reserve System; Mr. William DeSarno, Inspector General, National Credit Union Administration; Mr. A. Roy Lavik, Inspector General, Commodity Futures Trading Commission; Ms. Jeannette M. Franzel, Managing Director, Government Accountability Office; Mr. Clark Kent Ervin, Director, Homeland Security Program, Aspen Institute; and Ms. Danielle Brian, Executive Director, Project on Government Oversight.

"United States Agency for International Development (USAID): Management Challenges and Strategic Objectives" (April 28, 2009). USAID is the lead federal agency that directs and manages U.S.

development assistance programs. Over the past decade, USAID's role has expanded to meet many new challenges of the post Cold War and 9/11 world. The agency's enhanced responsibilities are articulated in the President's elevation of development to a theoretically equal footing with defense and diplomacy as part of "the 3 Ds" of U.S. national security policy.

The hearing focused on the agency's capacity to meet the new set of challenges in the provision of U.S. foreign aid as set out in the President's National Security Directive. Witnesses at the hearing discussed USAID's long-term strategic objectives and goals; USAID's contracting strengths and weaknesses; agency managerial, organizational, and workforce challenges; and agency coordination of the proliferation of U.S. Government foreign assistance programs.

The Subcommittee received testimony from the GAO based on its report, released on the date of the hearing, entitled "USAID Acquisition and Assistance: Challenges Remain in Developing and Implementing a Strategic Workforce Plan (GAO-09-607T)." The GAO report found that USAID does not currently have the capacity to develop and implement a strategic acquisition and assistance (A&A) workforce plan because it lacks sufficiently reliable and up-to-date data on its overseas A&A staff and comprehensive information on the competencies of its overseas A&A staff.

Witnesses: Mike Walsh, InsideNGO, Former Director of Procurement, USAID; Jim Kunder, Kunder-Reali Associates, Former Deputy Administrator, USAID; George Ingram, Academy for Educational Development; and Thomas Melito, Director, International Affairs and Trade, GAO.

"Cybersecurity: Emerging Threats, Vulnerabilities, and Challenges in Securing Federal Information Systems" (May 5, 2009). Federal information security weaknesses are a growing threat governmentwide as agencies increase their dependency on computer systems and Internet-based transactions for daily activities. The development of resilient information systems remains an elusive goal due to rapid advances in technology, flawed information assurance practices, and an increasing number of actors or groups using cyberspace as a means for disrupting government operations. According to the Congressional Research Service (CRS), attacks against computer systems, or "cyberattacks," can have multiple effects that include: the disruption of computer equipment or hardware reliability; the altering of system processing logic; and the corruption or loss of data stored within agency systems. While the federal government has multiple laws, regulations, and programs to address public and private sector cybersecurity responsibilities, the growing number of threats to federal systems continues to outpace advances in information assurance.

The oversight hearing examined the federal government's efforts to secure agency networks and cyber-based Critical Infrastructure (CI) assets, including the changing nature and purpose of cyberattacks against government institutions, along with a general discussion of the actors and organizations using cyberspace as a mechanism to disrupt government operations. In addition, the hearing looked at current laws and policies intended to mitigate government information system vulnerabilities due to technological

flaws, ineffective management practices, and the continuing escalation of threat capabilities both domestically and abroad.

Witnesses: Mr. Philip Reitering, Deputy Undersecretary, National Protection and Programs Directorate, U.S. Department of Homeland Security, (Invited); Mr. Robert F. Lentz, Deputy Assistant Secretary of Defense for Cyber, Identity, and Information Assurance, U.S. Department of Defense; Mr. John Streufert, Deputy Chief Information Officer for Information Security, Bureau of Information Resource Management, U.S. Department of State; Mr. Gregory Wilshusen, Director, Information Security Issues, Government Accountability Office; Mr. James Andrew Lewis, Director and Senior Fellow, Technology and Public Policy Program, Center for Strategic and International Studies; Mr. Marcus H. Sachs, Director, SANS Internet Storm Center, SANS Institute; Lt. General Harry D. Raduege, Jr. (Ret), Co-Chairman, CSIS Commission on Cybersecurity for the 44th Presidency; and Ms. Liesyl I. Franz, Vice President, Information Security and Global Public Policy, TechAmerica.

“The State of Federal Information Security” (May 19, 2009). The hearing reviewed the Federal Information Security Management Act of 2002 (FISMA) and agency efforts to improve the security, integrity, and reliability of the federal government’s information systems. In addition, the hearing attempted to clarify the new Administration’s strategic objectives for achieving FISMA compliance as well as its goals for improving how agencies mitigate the number of risks facing their systems.

Witnesses: Mr. Vivek Kundra, Chief Information Officer, Office of Management and Budget; Mr. Gregory Wilshusen, Director, Information Security Issues, Government Accountability Office; Ms. Jacquelyn Patillo, Acting Chief Information Officer, U.S. Department of Transportation; Ms. Margaret Graves, Acting Chief Information Officer, U.S. Department of Homeland Security; and Mr. Samuel Chun, Director, Cyber Security Practice, U.S. Public Sector, EDS, a division of the Hewlett-Packard Company.

“The State of Federal Contracting: Opportunities and Challenges for Strengthening Government Procurement and Acquisition Policies” (June 16, 2009). The federal government is the largest global purchaser of goods and services due to its size and broad scope of responsibilities. The types of goods and services obtained by agencies serve both military and civilian purposes. Examples include weapons systems, computer hardware, office supplies, administrative and technical support services, and health care for agency employees. During FY 2008, agencies reported purchasing or contracting for approximately \$517 billion in goods and services via 4.2 million separate transactions, resulting in a 13.3% increase in contract spending over FY 2007. Of this amount, \$383 billion, or 74%, was procured by the Department of Defense (DoD). The Government Accountability Office (GAO) cites procurement and acquisition deficiencies as a high-risk program management challenge for multiple agencies including: the DoD; Department of Energy; Department of Homeland Security; Department of Commerce; and the National Aeronautics and Space Administration (NASA).

The hearing examined current laws and regulations governing agency procurement and acquisition practices, and reviewed plans for implementing new requirements contained in recently enacted

legislation. The Subcommittee also sought additional information from Administration witnesses about its priorities and objectives for improving government-wide procurement and acquisition policies in light of key legislation enacted in both the 110th and 111th Congresses to address both inefficiencies and escalating costs throughout the agency procurement community.

Witnesses: Mr. Shay Assad, Director, Defense Procurement and Acquisition Policy, U.S. Department of Defense; Mr. David A. Drabkin, Acting Chief Acquisition Officer, General Services Administration; Mr. William Gormley, Chairman, Coalition for Government Procurement; Mr. Philip Bond, President, TechAmerica; Mr. John McNerney, General Counsel, Mechanical Contractors Association of America.

“Oversight of Federal Financial Management” (July 28, 2009). The Government Management Reform Act of 1994 (GMRA) requires all agencies covered by the Chief Financial Officers (CFO) Act of 1990 to have agency-wide audited financial statements beginning in fiscal year 1996. The statements cover all accounts and associated activities and must be audited in accordance with generally accepted accounting principles. A report on the audit by the Inspector General (IG) or an independent auditor must be submitted to the head of the agency.

For fiscal year 2008, 21 agencies obtained unqualified opinions, with the Department of Defense, Department of Homeland Security (DHS), National Aeronautics and Space Administration (NASA) all receiving disclaimers. Also, the overall number of material weaknesses across the federal government declined from 39 to 32 (or 18 percent), mostly due to a decrease in the number of Financial Systems and Security material weaknesses. The outstanding 32 material weaknesses were identified in the following categories: Financial Management and Reporting; Financial Systems and Security; Property, Plant & Equipment (PP&E); and Budgetary Reporting. Examples of such weaknesses include: financial statement preparation process controls; information security; the receipt and tracking of PP&E and funds control. Fiscal year 2008 is the fifth consecutive year in which a decline in material weaknesses has been reported, with a cumulative decline in material weaknesses since FY 2001.

The hearing reviewed the outcomes of the Government Accountability Office’s (GAO) audit of the federal government’s consolidated financial statement (CFS) for the fiscal year ending in 2008. The Subcommittee focused its oversight on the Department of Homeland Security and NASA, two government agencies identified in the agency-wide government financial audit as having significant deficiencies.

The subcommittee also received testimony from the Honorable Henry Cuellar, a member of the Subcommittee, on his sponsored legislation, H.R. 2142, the Government Efficiency, Effectiveness and Performance Improvement Act of 2009 (GEEPIA). The intent of GEEPIA is to build upon the Government Performance and Results Act of 1993 by requiring that every federal program be assessed at least once every five years to evaluate the clarity of the program’s purpose and objectives, the quality of the program’s management and organizational design, the quality of the program’s strategic and performance planning and goals, and the effectiveness of the program in meeting its strategic objectives.

Witnesses: Honorable Henry Cuellar, Member of Congress; Gene Dodaro, Acting Comptroller of the United States; Richard L. Gregg, Acting Fiscal Assistant Secretary, U.S. Department of the Treasury; Peggy Sherry, Acting Chief Financial Officer, Department of Homeland Security; Ronald Spoehel, Chief Financial Officer, NASA; Brian M. Riedl, Senior Policy Analyst and Grover Hermann Fellow in Federal Budgetary Affairs, the Heritage Foundation.

“E-Verify: Challenges and Opportunities” (July 23, 2009). The hearing examined potential challenges and benefits to the implementation and expansion of the E-Verify Program, a Web-based program administered by the Department of Homeland Security’s (DHS) U.S. Citizenship and Immigration Services (USCIS) to verify the identity and employment information of new hires. Under E-Verify, participating employers submit information about their new hires (name, date of birth, Social Security number, immigration/citizenship status, and alien number, if applicable.) The information is compared with data in Social Security and DHS databases to verify identity and employment eligibility.

The Bush Administration issued regulations requiring employers to participate in E-Verify under specified circumstances. One of the rules would have required certain federal contracts to contain a new clause committing contractors to use E-Verify. The Obama Administration delayed the applicability date of the rule until May 21, 2009. On July 8, 2009, DHS Secretary Janet Napolitano announced the Administration’s support for a regulation that would award federal contracts only to employers who use E-Verify to check employee work authorization.

Witnesses: Ms. Gerri Ratliff, Deputy Associate Director, National Security and Records Verification Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security; Mr. David Rust, Deputy Commissioner, Social Security Administration; Angelo I. Amador, Executive Director, Immigration Policy, U.S. Chamber of Commerce; Jena Baker McNeill, J.D., Policy Analyst, The Heritage Foundation.

“Investment Management and Acquisition Challenges at the Department of Homeland Security” (September 15, 2009). Established in March 2003 through the combination of 22 separate legacy agencies, DHS is charged with preventing domestic terrorist events, reducing vulnerabilities to such attacks, and improving recovery and relief efforts when attacks do occur. For FY 2009, DHS had a cumulative budget of \$52.5 billion to fund approximately 180,000 employees across multiple programs involving law enforcement, border security, science and technological research, preparedness, and disaster mitigation. To coordinate its activities, DHS maintains three directorates and 16 separate agencies or offices for program management and operations. Due to its failure to develop a comprehensive plan to address matters including agency transformation, integration, management, and long-term mission challenges, the Government Accountability Office (GAO) has designated DHS a high-risk entity.

The hearing examined the Department of Homeland Security’s (DHS) establishment of key investment management capabilities associated with successfully delivering major acquisitions programs, with a particular focus on large scale information technology (IT) systems. The hearing also explored the plans and chal-

lenges ahead for newly installed DHS leaders charged with strengthening the oversight and management of major acquisition programs.

Witnesses: The Honorable Elaine C. Duke, Deputy Undersecretary for Management, Department of Homeland Security; Mr. James L. Taylor, Deputy Inspector General, Department of Homeland Security; and Mr. Randolph C. Hite, Director, Information Technology Architecture & Systems Issues, Government Accountability Office (*to be accompanied by Mr. John Hutton*).

“IT Procurement and Disposal: Application of the Federal Government’s Green Policies in the Life Cycle Management of IT Assets.” (October 27, 2009). The United States Government (USG) spends on average \$70 billion annually for the purchase of information technology (IT) products and services and disposes of 500,000 computers yearly, or 9,600 every week. By default it plays a pivotal role in shaping the IT marketplace. Examples of IT products purchased by the USG are computers, laptops, printers, scanners, memory chips, cell phones, servers, microprocessors, monitors, software, and related communications infrastructure. Federal government guidance and procedures for the responsible disposal of this massive amount of IT investment is an issue of growing concern.

The hearing examined the federal government’s green initiatives in the life cycle management of its vast holding of information technology from the procurement to disposal phase. Specifically, the subcommittee attempted to determine what government-wide policies are in place to promote the purchase of IT energy-efficient products, the use of recycled materials in the manufacture of new IT products, and the responsible disposal and recycling of end of lifecycle IT assets. The hearing also attempted to determine to what extent mandated United States Government green initiatives are being implemented by various agencies as well as the level of interagency coordination and cooperation in the management and disposal of government IT assets.

The subcommittee found that the USG’s green program goals and targets are voluntary and filled with loopholes. For example, federal credit card purchases of IT assets are not tracked, therefore making it impossible to determine whether such purchases of IT assets conform to best practices for green procurement. Federal Acquisition Regulations (FAR) provide for exemptions in the purchase of green IT assets outside of the U.S. and outlying areas and permit purchase substitutes for ENERGY STAR or FEMP-affiliated products. The difficulty of inserting green purchasing requirements in federal contracts allows contracting officers as well as subcontractors to circumvent green purchasing requirements in covered service contracts.

Witnesses: The Honorable Gene Green, Member of Congress; The Honorable Mike Thompson, Member of Congress; John Stephenson, Director, Natural Resources & Environment, Government Accountability Office; Casey Coleman, Chief Information Officer, U.S. General Services Administration; James Jones, Principal Deputy Administrator, Office of Prevention, Pesticides & Toxics, U.S. Environmental Protection Agency; Michael Biddle, President & Founder, MBA Polymers; Gilbert Casellas, Vice President, Corporate Responsibility & Chief Diversity Officer, Dell Inc.; Rick Goss, Vice President, Environment & Sustainability, Information Technology

Industry Council; Rich Littlehale, Chief Executive Officer, YouRenew.com; Jeff Omelchuck, GEC Director and EPEAT Executive Director, Green Electronics Council.

“Protecting Intellectual Property Rights in a Global Economy: Current Trends and Future Challenges” (November 4, 2009). The United States is the global leader in IPR holdings protected under international agreements, making IPR a source of comparative advantage for domestic industry. According to recent statistics compiled by the U.S. Chamber of Commerce, domestic IP related holdings are valued at approximately \$5.5 trillion and account for nearly 18 million jobs in various sectors. Furthermore, the Chamber estimates that IPR related goods and services account for more than half of all U.S. exports and approximately 40% of private sector economic growth.

The economic and social costs associated with IPR infringement, such as piracy and counterfeiting, are difficult to estimate and vary according to each industrial sector. Both the FBI and the Department of Homeland Security have estimated the costs associated with piracy and counterfeiting to be between \$200 billion and \$250 billion annually for domestic industries.

As the prevalence of IPR infringement increases, so have the number of seizures by U.S. Customs officials. For 2008, both the U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) agencies at the Department of Homeland Security (DHS) reported nearly 15,000 IPR related seizures of pirated and counterfeit goods having a total value of \$272 million, a 38% increase over FY 2007. Top commodities seized by authorities included footwear/accessories, pharmaceuticals, and apparel.

The hearing focused on the federal government’s roles and responsibilities in the global protection and enforcement of intellectual property rights (IPR) and, in particular, the strategic objectives of the Obama Administration for improving coordination among stakeholder agencies (Department of Commerce, Office of the United States Trade Representative, Department of Justice, Department of Homeland Security, U.S. Patent Office, and Department of State) having IPR protection or enforcement responsibilities.

Witnesses: The Honorable Cameron Kerry, General Counsel, U.S. Department of Commerce; Mr. Stanford K. McCoy, Assistant U.S. Trade Representative for Intellectual Property and Innovation, Office of the U.S. Trade Representative; Mr. Jason Weinstein, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice; Mr. William E. Craft, Acting Deputy Assistant Secretary, Bureau of Economics, Energy and Business Affairs, U.S. Department of State; and Mr. Loren Yager, Director, International Affairs and Trade, Government Accountability Office; The Honorable Dan Glickman, Chairman and C.E.O, Motion Picture Association of America, Inc.; Mr. Robert W. Holleyman, II, President and Chief Executive Officer, Business Software Alliance; Mr. Brian Toohey, Senior Vice President for International Affairs, Pharmaceutical Research and Manufacturers of America; and Mr. Jay Timmons, Executive Vice President, National Association of Manufacturers.

“Tracking the Money: Assessing the Recovery Act’s Impact on the State of California” (Field Hearing in Los Angeles, CA, held jointly

by the Committee on Oversight and Government Reform and the Subcommittee on Government Management, Organization and Procurement) (March 5, 2010). The Recovery Act was created in response to the most serious national economic crisis since the Great Depression. The purpose of the Act is to promote economic stabilization, preserve and create jobs, assist those most impacted by the recession, stabilize the budgets of state and local governments, and provide long-term economic investments in transportation, environmental protection, and infrastructure. Under the Act, California has been awarded more funding, \$21.5 billion, than any other state in the nation.

The joint full committee and Government Management Subcommittee field hearing, held in Los Angeles, CA, examined Recovery Act funded transportation, education, and energy projects, programs, and grants in California, with particular attention to evaluating measures taken to prevent waste, fraud, and abuse. The hearing focused on a number of issues of concern including: significant overhead costs associated with administering the Recovery Act funds and the added burden it places on state agencies due to declining revenues; meeting Recovery Act assessment and reporting requirement deadlines, with particular focus on the California Department of Education's (CDE) failure to meet those requirements; and the state's management of Recovery Act energy funds.

Witnesses: The Honorable Patrick Morris, Mayor of San Bernardino, CA; The Honorable Chuck Reed, Mayor of San Jose CA; The Honorable Antonio R. Villaraigosa, Mayor of Los Angeles, CA; Linda Calbom, Director, Western Region, U.S. Government Accountability Office; Herb K. Schultz, Director, California Recovery Task Force; Elaine M. Howle, California State Auditor, Bureau of State Audits; Laura N. Chick, Recovery Inspector General, State of California.

"Federal Information Security: Current Challenges and Future Policy Considerations" (March 24, 2010). Weaknesses in federal information security threaten both the operability of federal programs and the privacy of citizens whose personal information is maintained in government computer systems. To minimize vulnerabilities in federal information systems, FISMA was enacted in December 2002 as part of the Electronic Government Act of 2002. FISMA reauthorized and strengthened provisions in the Government Information Security Reform Act (GISRA) that require federal agencies to identify and minimize potential risks to the security of their information and information systems. In FY 2009, agencies reported spending \$6.8 billion on information security out of roughly \$75 billion for IT investments overall.

FISMA requires federal agencies to assess the state of their information security management and submit the findings to the Office of Management and Budget (OMB) in September of each year. It also charges each federal agency's Chief Information Officer (CIO) with evaluating the state of his or her agency's information security management through a questionnaire developed by OMB. As part of the annual review process, each review must be independently evaluated by the agency's Inspector General (IG) (or another independent evaluator on behalf of the IG) before being submitted to OMB. OMB must summarize these findings and submit its analysis in an annual report to Congress.

In addition, FISMA requires agencies to report the occurrence of security incidents or compromises of an agency's networks to the U.S. Computer Emergency Readiness Team (US-CERT). Since its establishment in September 2003 as part of the Department of Homeland Security's (DHS) infrastructure protection program, the primary purpose of US-CERT is to provide agencies with threat analysis information and assistance in responding to security incidents. Examples of such incidents are attempts by hackers to access systems, overwhelm systems by flooding them with data, or to spread viruses and other malicious code.

The hearing examined issues relating to government-wide information security challenges and efforts to comply with requirements established under the Federal Information Security Management Act of 2002 (P.L. 107-347). Specifically, the hearing focused on the following issues: the FY 2009 report to Congress on FISMA implementation and the development and implementation of computer based interactive reporting tools (Cyberscope) for data reporting in place of the current manual process; the increasing number of cyber incidents being reported by agencies to OMB; continuing federal government vulnerabilities and shortcomings in responding to major cyber incidents; weaknesses in agency responses to coordinated cyber attacks; interagency cooperation; and agency preparation and capability to combat emerging cybersecurity challenges.

Witnesses: Mr. Vivek Kundra, Chief Information Officer, Office of Management and Budget; Mr. Gary "Gus" Guissanie, Acting Deputy Assistant Secretary of Defense for Cyber, Identity, and Information Assurance, U.S. Department of Defense; Mr. John Streufert, Deputy Chief Information Officer for Information Security, Bureau of Information Resource Management, U.S. Department of State; Mr. Gregory Wilshusen, Director, Information Security Issues, Government Accountability Office; Mr. Philip Bond, President, TechAmerica; Mr. John Gilligan, President, the Gilligan Group, Inc.; Mr. Alan Paller, Director of Research, SANS Institute; and Mr. Christopher Fountain, President and CEO, SecureInfo Corporation (Minority Witness).

"Oversight of Federal Financial Management" (April 14, 2010). The hearing reviewed the outcomes of the Government Accountability Office's (GAO) audit of the federal government's consolidated financial statement (CFS) for the fiscal year ending in 2009.

Due to certain material weaknesses related to internal control over financial reporting and other limitations, for the 13th consecutive year, GAO was unable to express an opinion for fiscal years 2008-2009 on the U.S. Government's CFS statements except for the 2007-2009 Statements of Social Insurance, all of which were represented fairly in accordance with GAAP. GAO also found that the federal government did not apply effective internal controls regarding its financial reporting requirements including the safeguarding of assets. GAO found that ongoing material weaknesses within certain agencies impacts the federal government's ability to (1) accurately report a large portion of its assets, liabilities, costs and other related information; (2) affects the federal government's ability to sufficiently protect major assets or to properly record various transactions; (3) prevents the federal government from reliably measuring the complete cost as well as the financial and non-financial performance of particular programs and activities; and (4)

hinders the federal government from reporting reliable financial data.

In addition to the testimony submitted by the Acting Comptroller of the United States, the Subcommittee received testimony from Departments of State, Treasury, and Defense representatives on their agencies' efforts to strengthen internal agency and government-wide financial management and reporting requirements.

A second panel of private sector witnesses addressed H.R. 2142, the Government Efficiency, Effectiveness and Performance Improvement Act of 2009 (GEEPIA), which is sponsored by Congressman Henry Cuellar. The intent of GEEPIA is to build upon the Government Performance and Results Act of 1993 by requiring that every federal program be assessed at least once every five years to evaluate the clarity of the program's purpose and objectives, the quality of the program's management and organizational design, the quality of the program's strategic and performance planning and goals, and the effectiveness of the program in meeting its strategic objectives. The legislation also seeks to provide congressional policy makers with better information so that they can conduct more effective oversight, and to help agencies make informed management decisions, improve the effectiveness of agency and program operations, and submit evidence-based funding requests. Lastly, the legislation seeks to improve the federal government's performance management infrastructure by establishing the Performance Improvement Council and "agency performance improvement officers."

Witnesses: Gene Dodaro, Acting Comptroller of the United States; Richard L. Gregg Acting Fiscal Assistant Secretary, U.S. Department of the Treasury; Danny Werfel, Controller, Office of Federal Financial Management, Office of Management and Budget; James L. Millette, Deputy Assistant Secretary for Global Financial Services, Department of State; Mark E. Easton, Deputy Chief Financial Officer, Department of Defense; John Barton, Manager of Public Information, Texas Legislative Budget Board; Michael J. Hettinger, Director of Practice Planning and Marketing, Grant Thornton LLP; Veronique de Rugy, Ph.D, Senior Research Fellow, Mercatus Center, George Mason University.

"Cloud Computing: Benefits and Risks of Moving Federal IT into the Cloud" (Hearing held jointly with the Committee on Oversight and Government Reform and the Subcommittee on Government Management, Organization, and Procurement) (July 1, 2010). The Subcommittee on Government Management, Organization, and Procurement, in conjunction with the Committee of Oversight and Government Reform, held a hearing on the benefits and risks of the federal government's employment of cloud computing technologies. At its most basic level, cloud computing technology is Internet-based computing whereby computing resources are shared and accessible on demand. One of the most commonly used analogies for cloud computing is that of a utility service. Before the advent of the electric grid at the turn of the 20th Century, business owners that wanted to use machinery also needed to produce enough energy to run that machinery. This meant investing heavily to build and maintain a power source. The electric grid revolutionized the country by centralizing the energy resource and allowing businesses to simply purchase electricity. Cloud computing does the

same for computing power. Instead of building and maintaining an entire IT infrastructure in house, businesses can purchase computing power and tap into that resources over the Internet. Software applications, platform, and infrastructure are all available as a service through cloud computing.

It is estimated that the government-wide shift to cloud computing may take ten years. A number of agencies have already begun using cloud computing solutions including, but not limited to, the Departments of Defense, Energy, Health and Human Services, Commerce, Justice, Homeland Security and Interior. The Securities and Exchange Commission, Recovery Accountability and Transparency Board, Social Security Administration, and General Services Administration are also using cloud computing as are dozens of state and local governments around the nation.

Cloud computing services offer a number of advantages such as greater efficiencies and cost savings, lower exposure of internal sensitive data, automated security management, and greater redundancies to ensure the recovery of lost data. Chief among cloud computing vulnerabilities are privacy and security concerns due to the fact that the data is not directly held by the user.

The hearing examined both the advantages and vulnerabilities associated with the federal government's move to cloud computing platforms as well as efforts the Office of Management and Budget, the National Institute of Standards and Technology, and other relevant federal agencies are undertaking to develop common standards to promote cloud computer usability and ensure security.

In July 2009, Chairwoman Watson requested that GAO commence a study ("Information Security: Federal Guidance Needed to Address Control Issues with Implementing Cloud Computing," July 1, 2010, GAO-10-513) to evaluate the technical and security risks associated with cloud computing across the federal government. The GAO report, released to the public at the hearing, determined that while individual agencies have identified security measures needed when using cloud computing, they have not always developed corresponding guidance, and that OMB and GSA have yet to complete government-wide cloud computing security initiatives. Government panel witnesses assured the Committee that government-wide cloud security guidance would be issued by the end of the calendar year.

Witnesses: Mr. Vivek Kundra, Federal Chief Information Officer, Administrator for E-Government and Information Technology, Office of Management and Budget; Mr. David McClure, Associate Administrator, Office of Citizen Services and Communications, General Services Administration; Ms. Cita Furlani, Director, Information Technology Laboratory, National Institute of Standards and Technology; Mr. Gregory Wilshusen, Director, Information Security Issues, Government Accountability Office; Mr. Scott Charney, Corporate Vice President, Trustworthy Computing, Microsoft Corporation; Mr. David Burton, Senior Vice President, Global Public Policy, Salesforce.com; Mr. Mike Bradshaw, Director, Google Federal, Google Inc.; Mr. Gregory Ganger, Professor, Electrical and Computer Engineering, Director, Parallel Data Lab, Carnegie Mellon University.

"Green Building Practices in the Federal Sector: Progress and Challenges to Date" (July 21, 2010). The hearing explored what

performance measurements are in place to track energy efficiency savings and other outcomes for green buildings; how funding constraints and other factors affect the full implementation of green building practices; the role Congress should play in shaping a coherent set of standards for green building; how well federal agencies are coordinating efforts to “green” federal buildings; challenges related to measuring performance outcomes; and the use of green building practices to reduce the consumption of energy, water, and materials and promote a healthy and productive workplace. Finally, potential disadvantages associated with the adoption of green and high-performance building practices were addressed.

The subcommittee found that although the long-term benefits of green building renovation and construction are demonstrated through greater energy efficiency and lower operating costs, many agencies cite the requirement to outline capital costs outright in the federal budget as an impediment to greening federal buildings, and as a direct conflict with other agency funding priorities. Further, there is a concern that going forward that federal agencies will be less inclined to invest in energy efficient technologies if their budgets are based on smaller operating costs that discourage such investments.

For green building practices to succeed, there is a need for more funding to better train federal agency staff in overseeing energy savings performance contracts and related activities in an effort to comply with provisions contained in Energy Independence and Security Act of 2007 (EISA). Another issue affecting the full implementation of EISA and relevant executive orders is the inconsistent collection of reliable energy data and the absence of a data collection standards pertaining to federal energy management. Federal agencies use a range of methods to collect energy data that produce varying results and in turn can cause inefficient building operations post construction. The adoption of a uniform data collection standard, along with improved training for energy management and building personnel, will assist federal agencies in meeting their energy reduction and other target goals under EISA.

To date, Congress has not conducted extensive oversight regarding green building practices, which are relatively new and involve multiple federal agencies. Progress has been made by GSA, EPA, DOE and OMB in coordinating the implementation of EISA high-performance federal building requirements; however, concerns exist that once the flow of Recovery Act funding ceases for DOE and GSA, the agencies will likely experience difficulty in maintaining some of their obligations under EISA, and in reducing their energy and water usage as mandated.

Witnesses: Kevin Kampschroer, Director, Office of High Performance Green Buildings, General Services Administration; Kathleen Hogan, Deputy Assistant Secretary for Energy Efficiency, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy; Dennis Bushta, Deputy Director, Office of Administration, U.S. Environmental Protection Agency; Henry Green, President, National Institute of Building Sciences; Ellen Vaughan, Policy Director, High Performance Green Buildings, Environmental and Energy Study Institute Lynn Bellenger, President, American Society for Heating, Refrigeration, and Air-Conditioning Engineers

(ASHRAE); James Bertrand, Vice President, Delphi, President, Delphi Automotive Holdings Group and Delphi Thermal Systems.

“Minority Contracting: Opportunities and Challenges for Current and Future Minority-Owned Businesses (July 28, 2010). The hearing examined issues relating to government-wide minority contracting and agency efforts to comply with requirements for minority-owned business programs. General issues addressed included the following: the state of federal programs designed to aide minority and disadvantaged business owners in accessing federal markets; administrative or competitive barriers within the contracting process; accountability of agencies charged with meeting contracting goals established for minority-owned firms; identification of barriers, including racial discrimination, for minority entrepreneurs within the contracting process; and the future policy landscape for competition among larger and smaller minority-owned firms.

The Subcommittee also received testimony from Congressman Bobby Rush on his legislation, H.R. 4343, the Minority Business Development Improvements Act of 2009, which would require the Minority Business Development Agency (MBDA) to establish a program providing technical assistance, loan guarantees, and contract assistance to “qualified minority businesses.”

The subcommittee focused a great deal of attention on evidence of ongoing discrimination in federal contracting and the fact that minority-owned businesses are still disproportionately underrepresented in the federal marketplace. Proving such discrimination in a way that can withstand “strict scrutiny,” however, has been increasingly difficult given developments in the federal courts’ jurisprudence on Equal Protection. In the late 1980s and early 1990s, the Supreme Court decided several key cases, including *City of Richmond v. J.A. Croson Co.* and *Adarand Constructors Inc. v. Peña*, which resulted in the federal government having to show that any race-conscious programs are necessary to achieve a compelling government interest. While courts have recognized that the government can potentially have a compelling interest in remedying either its own discrimination or private-sector discrimination in which it is a “passive participant,” they have placed an increasingly heavy evidentiary burden upon Congress in demonstrating such discrimination.

The 2008 decision by the U.S. Court of Appeals for the Federal Circuit in *Rothe Development Corporation v. Department of Defense* arguably represents the culmination of this trend. In *Rothe*, the court struck down a Department of Defense minority contracting program on the grounds that Congress did not have a “strong basis in evidence” for concluding that race-conscious contracting was necessary to remedy discrimination in the defense industry when it reenacted the program in 2006. The court found that the six “disparity studies” relied on the government as showing discrimination in defense contracting were methodologically flawed, limited in their geographic coverage, and not the subject of Congressional findings. It also rejected other statistical and anecdotal evidence on similar grounds, noting, in particular, that even anecdotal evidence introduced at congressional hearings is “insufficient by itself” to support a challenged program.

Witnesses: The Honorable Bobby L. Rush, Member of Congress; The Honorable Marie C. Johns, Deputy Administrator, U.S. Small Business Administration; Ms. Jiyoung Park, Associate Administrator for Small Business Utilization, General Services Administration; Ms. Linda Oliver, Acting Director, Office of Small Business Programs, U.S. Department of Defense; Mr. David Hinson, Director, Minority Business Development Agency, Department of Commerce; Mr. Brandon Neal, Director, Office of Small and Disadvantaged Business Utilization, Department of Transportation.; Mr. Anthony W. Robinson, President, Minority Business Enterprise Legal Defense and Education Fund; Mr. Fernando V. Galaviz, President, The Centech Group, on behalf of The Mid-Tier Advocacy; Mr. Don O'Bannon, Chairman, Airport Minority Advisory Council; Mr. Joel Zingesser, Director of Corporate Development, Grunley Construction Co., Inc.

2. Legislation

a. H.R. 2142, The Government Efficiency, Effectiveness, and Performance Improvement Act of 2009

H.R. 2142, the Government Efficiency, Effectiveness and Performance Improvement Act of 2009, sponsored by Congressman Henry Cuellar, builds upon the Government Performance and Results Act of 1993 by requiring that every federal program be assessed at least once every five years to determine whether such programs meet their intended purpose and objectives. It requires that programs be evaluated in accordance with specific criteria that include: program management and organizational design; strategic and performance planning; and program effectiveness.

The legislation also seeks to provide Congress with more reliable data to be used in making program funding decisions, conducting oversight, and in developing long-term budgetary blueprints for agency needs. To meet these goals, the legislation establishes a Performance Improvement Council within OMB and requires the establishment of "performance improvement officers" in each agency. Below is a summary of key provisions contained in the legislation.

- Requires each agency head to collaborate with the Director of OMB to assess every program at least once every five years focusing on the program's purpose, strategic plan, and performance related objectives;
- Requires the Director of OMB to make available, along with the President's budget, a draft list of programs to be assessed during the following fiscal year for planning purposes.
- Updates the requirements for agency strategic plans required by the Government Performance and Results Act of 1993.
- Creates the position of "agency performance improvement officer" to supervise the performance management activities of each agency.
- Establishes the Performance Improvement Council to assist in the development of performance standards and evaluation methodologies, identify best practices in federal performance management, and facilitate the exchange of information on performance among agencies.

The Subcommittee considered H.R. 2142 during a business meeting on Wednesday, May 12, 2010. Rep. Cuellar offered a substitute amendment making a number of changes to the bill. These changes include: requirements that each agency, in consultation with OMB, identify high priority goals with performance outcomes that can be clearly and objectively reviewed and measured and that have high direct value to the public, and that agencies review progress toward meeting those goals at least once each quarter; requirements for OMB to make available with the President's annual budget a list of agency goals and the approach to be used by agencies to review progress toward achieving those goals; the establishment of mechanisms for both Congress and the public to comment on the goals to be reviewed and methods each agency plans to use; and requirements for agencies to make the results of performance reviews publicly available on the Internet.

The Cuellar amendment requires GAO or, as appropriate, an agency's Inspector General, to evaluate implementation of the bill at least as often as the first, third, and fifth years after enactment.

H.R. 2142, as amended by the Cuellar amendment, was approved by the Subcommittee on a voice vote.

(b) H.R. 4900, the Federal Information Security Amendments Act of 2010

H.R. 4900, the Federal Information Security Amendments Act of 2010, was introduced by Subcommittee Chairwoman Watson on March 22, 2010. The bill was marked up by the Subcommittee on Government Management, Organization, and Procurement and forwarded to the full committee, as amended, by voice vote on May 5, 2010.

The Federal Information Security Management Act (FISMA) was enacted in December 2002 as part of the Electronic Government Act of 2002. FISMA requires federal agencies to assess the state of their information security management and submit the findings to the Office of Management and Budget (OMB) in September of each year, and are included in OMB's annual report to Congress on federal information security.

FISMA includes several key information security protocols and requirements that require agencies to:

- conduct periodic risk assessments that evaluate likely threats against their information and systems;
- categorize the appropriate levels of risk among different information systems and to develop plans to minimize the risk posed by various threats;
- provide employees with security awareness training;
- maintain a detailed inventory of all information systems, both in-house and those operated by outside contractors; and
- develop a contingency plan for the continuation of operations in the event that systems are compromised.

In addition, FISMA requires agencies to report the occurrence of security incidents or compromises of an agency's networks to the U.S. Computer Emergency Readiness Team (US-CERT).

Despite improvements made under FISMA, GAO continues to report significant and persistent information security weaknesses within agency information systems and security programs. Recent data point to an increasing number of cyberattacks against federal

information systems, including the number of agencies reporting security incidents where operations were disrupted or sensitive data was placed at risk.

In response to these challenges, H.R. 4900 incorporates multiple policy recommendations made by the Obama Administration, public-private sector working groups, and GAO for remedying both technical and managerial information security deficiencies throughout the federal government. Key provisions in H.R. 4900 include:

- The establishment of a National Office for Cyberspace (NOC) within the Executive Office of the President to coordinate and oversee the information security of agency information systems and infrastructure. The Director of the NOC would be appointed by the President and subject to Senate confirmation.
- The establishment of a Federal Cybersecurity Practice Board (Board) within the NOC that would be charged with developing policies and procedures for agencies to adhere to in meeting FISMA statutory requirements and to oversee the implementation of NIST approved standards and guidance. The Board will be chaired by the Director of the NOC, and include standing members from OMB, DoD, and selected members from civilian and law enforcement agencies.
- Requirements for agencies to undertake automated and continuous system monitoring to identify system compliance, deficiencies, and potential risks caused by cyber incidents or threats to an agency's information technology assets.
- Requirements for agencies to obtain an annual independent audit of their information security programs to determine their overall effectiveness and compliance with FISMA requirements. Audits would also be required of contractors responsible for managing agency systems or programs on their behalf.
- Requirements for the development of secure acquisition policies and vulnerability assessments for major systems to be used in the procurement of information technology products and services, as well as policies for mitigating supply chain risks associated with such products.

The Subcommittee considered H.R. 2142 during a business meeting on Wednesday, May 5, 2010. The Subcommittee agreed to an amendment by chairwoman Watson containing technical changes and minor refinements to the original bill, as well as an amendment from Congressman Connolly to establish an Office of the Chief Technology Officer within the Executive Office of the President.

D. SUBCOMMITTEE ON INFORMATION POLICY, CENSUS, AND NATIONAL ARCHIVES

The Subcommittee on Information Policy, Census, and National Archives has jurisdiction over public information and records laws such as the Freedom of Information Act, the Presidential Records Act, and the Federal Advisory Committee Act, the Census Bureau, and the National Archives and Records Administration. In the 111th Congress, Rep. William Lacy Clay served as Chairman and Rep. Patrick T. McHenry as Ranking Member.

1. Oversight

a. 2010 Decennial Census

(1) Overview

A substantial portion of the Subcommittee's oversight activities involved the Census Bureau and its implementation of the 2010 Census. The Subcommittee sought to assess and improve the Census Bureau's preparedness on a number of issues relating to the efficiency and operational aspects of the 2010 Census. Some 9,400 key operations and activities made up the greater Census 2010 agenda. However, the Census Bureau identified 44 key decennial operations for 2010 and the Subcommittee continued to evaluate and assess. These complex, time sensitive activities made oversight vitally important to ensuring operational efficiency, budget awareness and fiscal constraint. To that end, the Subcommittee accomplished the following:

- Monitoring the 2010 Census field address list improvement and enumeration operations for accuracy, conformity to specifications, inclusiveness and field management efficiency.
- Ascertaining the adequacy of security controls, including information technology to protect privacy of information by its respondents.
- Continual monitoring of the Census Bureau's effectiveness at managing the cost, schedule, and operation risks.
- Follow up and investigate Census related fraud claims and hotline complaints.
- Assess the Recovery Act expenditures related to 2010 census field operations.
- Provide an examination of the Census 2010 communications campaign.
- Increased transparency and accountability of Census 2010 operations.
- Evaluating and ensuring that the Census 2010 Communications Campaign received proper ad placement in traditionally hard to count communities.
- A special data product of census tabulations regarding the Prison Group Quarters count.

The Supplemental Appropriations Act of 2008 gave the Census Bureau an additional \$210 million to help cover the 2010 decennial costs. The Bureau was required to submit a detailed plan and timeline of decennial milestones and expenditures, and a quantitative assessment of associated risks. The Commerce Department, Office of the Inspector General (OIG) was required to provide quarterly reports on the Bureau's progress with the plan. The objective of the report, according to the OIG, was to determine the Bureau's ability to oversee the systems and information for tracking schedule activities, cost, and risk management activities.

In the First Quarterly Report released on August 14, 2009, the OIG review found the Bureau's ability to effectively oversee decennial progress is hampered by inherent weaknesses in its systems and information tracking activities, costs, and risk management activities. The overarching problem was a lack of integration between systems and information. The Subcommittee sought direct links between the schedule of activities, the cost of those activities and the

work actually accomplished. The Subcommittee subsequently took a more active role in the improvement and oversight of these specific measures.

The Subcommittee also focused on the state of the Bureau's progress and readiness for the 2010 enumeration and detailed advancements made in prior areas of concern. The Subcommittee explored specific aspects of Census operations including, but not limited to, the payroll processing system for the 1 million temporary workers and the field workflow management and operation systems. There were a few glitches in payroll, in a few specific areas, but those were quickly alleviated. Further, the Subcommittee received continued updates on cost estimates. Additionally, the Subcommittee tracked the efforts underway by the Census Bureau to fully ensure that Census 2000 issues have been mitigated.

The U.S. Census Bureau returned at least \$1.6 billion back to the government this year because the 2010 Census came in under budget. Congress appropriated \$14.7 billion over 12 years for this year's headcount. Preparations for the 2010 count began in 1999 with early planning meetings, but the more than half the money was spent this year. The 2010 Census was still the most expensive in American history, but census budgets have climbed every decade since 1950, as the population and number of households have increased. In contrast, the Census Bureau returned \$305 million from a \$7 billion total budget in 2000. Factors which contributed to the recent savings were: (1) an initial good response rate; (2) more efficient workers; (3) the advertising blitz; (4) no natural disasters; (5) remote area savings; and (6) daily troubleshooting by the bureau.

(2) Master Address File

The Census Bureau developed a nationwide address list, often called the "Master Address File" (MAF) to document the street address (or a comparable location description), the mailing address (if different from the street address), and the census block location of every designated living quarter in the United States and related Island Areas. The Bureau developed different procedures for acquiring the urban area addresses as opposed to the rural areas. This is a tremendous endeavor. The Subcommittee along with Bureau engaged to ensure the quality and quantity of addresses in the United States.

(3) Non-Response Follow-Up

The Subcommittee also sought the lessons learned from address canvassing that improved the effectiveness of non-response follow-up (NRFU). NRFU is the most expensive and labor intensive operation of the decennial census. Increasing costs and automation problems caused the Census Bureau decision to abandon the handheld computers for Non Response Follow Up and coverage measurement operations in favor of paper. This move was applauded by the oversight agencies as well as the Subcommittee, as problems with the hand-helds continued.

(4) Complete Count Committees

In an effort to increase the likelihood of an accurate count, the Census Bureau developed a partnership with thousands of organi-

zations and community leaders. On the local level, the Census Partnership Program works with religious and faith-based organizations, local officials, businesses, educators and community activists. These groups are described as Complete Count Committees (CCC). The Complete Count Committees worked on the local level and touch neighborhoods and communities. The Census Bureau provides official materials to these partners, but no monetary assistance to these committees. Thus, the committees, in encouraging civic participation, had to be creative and innovative in reaching their communities and securing funds for assistance in their task. The success of Complete Count Committees was crucial to ensuring an accurate count.

(5) Paper Based Operation Control Systems

Paper Based Operation Control System (PBOCS) encountered hardware and software problems. Prior audits, earlier in the year, determined that PBOCS were high risk. The Census Bureau immediately took steps to improve management functions, including the appointment of a testing officer to oversee operations. Further problems were mitigated with new software and hardware updates.

(6) Census Staffing

The 565,000 temporary workers hired to conduct follow up interviews at the 47 million households that didn't return census forms were more educated and experienced than previous years. The highly skilled workforce was thought to be due mostly to a higher number of unemployed overqualified applicants seeking jobs amid the economic slump. The added work experience meant workers spent less money and time on travel and completed their work more efficiently and in a timely manner. The Inspector General of the Commerce Department found that the Census Bureau was well positioned for Non Response Follow-Up in terms of workload and staffing.

b. Information Policy

(1) Overview

The Subcommittee conducted oversight into federal information policy. At Chairman Clay's request, the Government Accountability Office (GAO) agreed to review the management and protection of information collected and maintained by commercial providers of Web 2.0/social media services on behalf of or in association with federal agencies. The Subcommittee also examined the state of public access to the results of federally-funded research and the status of federal electronic records management.

(2) National Archives and Records Administration

A significant portion of the Subcommittee's oversight activities involved the National Archives and Records Administration (NARA), including examining NARA's management and preservation of federal electronic records; information technology and physical security at NARA facilities; and the continuing development of the Electronic Records Archives (ERA). At Chairman Clay's request, the GAO agreed to review NARA's use of Earned Value Management in its management of the ERA contract.

The Subcommittee also reviewed the mission of the National Archives, in light of recent agency challenges, a new Archivist of the United States, and concerns over agency morale.

Further, the Subcommittee examined NARA's use of Advisory Committees under the Federal Advisory Committee Act; the possible exposure of personally-identifiable information in improperly-handled electronic records under NARA's care; the probable loss of millions of Bush Administration e-mails; the initial progress of the Office of Government Information Services; and researcher concerns over renovations at Archives I, the agency's headquarters and a major research facility.

(3) Presidential Records

The Subcommittee reviewed the *Report On Alternative Models for Presidential Libraries*, submitted to Congress in September 2009. A requirement of the Presidential Historical Records Preservation Act of 2008, the Archivist was asked to submit a report on reducing costs, improving preservation and reducing delays in public access to Presidential records.

At Chairman Clay's request, GAO agreed to review the relationships between presidential libraries and the private foundations that build and help to maintain them. The Subcommittee also reviewed NARA's use of the Advisory Committee on Presidential Libraries, including questions of membership balance and frequency of meetings.

(4) The National Historical Publications and Records Commission

The Subcommittee conducted oversight over the National Historical Publications and Records Commission (NHPRC), the grant-making arm of NARA. Chairman Clay sought to increase the funding of the NHPRC with H.R. 5616, the National Historical Publications and Records Commission Act of 2010, which would authorize appropriations for the National Historical Publications and Records Commission for FY2011–FY2015 at \$20 million per year. The Subcommittee reported the bill favorably to the full Oversight Committee.

(5) The Freedom of Information Act

The Subcommittee reviewed the administration of the Freedom of Information Act across the federal government. The Subcommittee also heard from the open government community about how to improve FOIA administration, decrease backlogs and delays, and improve cooperation between agencies and requesters.

The Subcommittee examined the progress of the new government-wide FOIA ombudsman, the Office of Government Information Services (OGIS), which is charged with reviewing the FOIA policies and procedures of administrative agencies to make sure they are in compliance with the new law. Congress placed OGIS within the National Archives and Record Administration to serve as an impartial mediator to resolve disputes between FOIA requesters and administrative agencies.

2. *Proceedings*

a. Hearings

“Status of the 2010 Census Operations” (March 5, 2009). This hearing examined the progress report on the 2010 Census. The hearing addressed integration and testing of the information technology systems; implementation of the 2010 Census Local Update of Census Address (LUCA) program; preparations for Address Canvassing; reliability of the cost estimate; and field infrastructure for non-response follow-up (NRFU) and other operations. The subcommittee also examined the Census Bureau’s progress on implementing recommendations of the Government Accountability Office (GAO).

Witnesses: Mr. Thomas L. Mesenbourg, Acting Director, U.S. Census Bureau; Mr. Robert Goldenkoff, Director, Strategic Issues, U.S. Government Accountability Office; Mr. David A. Powner, Director Information Technology, U.S. Government Accountability Office and Glenn S. Himes, Ph.D., Executive Director, Civilian Agencies, Center for Enterprise Modernization, the MITRE Corporation.

“2010 Census: Assessing the Bureau’s Strategy for Reducing the Undercount of Hard-to-Count Populations” (March 23, 2009). This hearing examined the Census Bureau’s strategies for the 2010 Regional Partnership Program; how the communications plan would decrease the undercount and increase the mail response rate of hard-to-count communities; and whether the messaging would generate community support for the Census. The hearing was a follow-up to the Subcommittee’s July 10, 2008 hearing on the integrated Communications Campaign.

Witnesses: Mr. Robert Goldenkoff, Director, Strategic Issues, United States Government Accountability Office; Mr. Thomas L. Mesenbourg, Acting Director, U.S. Bureau of the Census; Mr. Lester A. Farthing, NY Regional Director, U.S. Bureau of the Census; Mr. Tim Olson, Assistant Division Chief of Partnership, Field Division, U.S. Bureau of the Census; Ms. Stacey Cumberbatch, City Census Coordinator, City of New York; and Jeff Tarakajian, Executive Vice President, DRAFTFCB.

“Stakeholders’ Views on the National Archives and Records Administration (NARA)” May 21, 2009. This hearing examined issues that President Obama’s Administration should consider in selecting the next Archivist of the United States, as well as NARA’s Strategic Plan, the Freedom of Information Act, the Presidential Libraries Donation Act, the Office of Government Information Services Act, the collection and storage of historical records and the staffing of NARA facilities.

Witnesses: Dr. Thomas C. Battle, Director of the Moorland-Spangarn Research Center at Howard University; Ms. Meredith Fuchs, General Counsel for the National Security Archive at The George Washington University; Mr. Lee White, Executive Director of the National Coalition for History; and Ms. Patrice McDermott, Director of OpenTheGovernment.Org.

“Identity Theft: Victims Bills of Rights” (June 17, 2009). This hearing examined actions the federal government has taken to address the problem of identity theft, and how to provide protection to victims.

Witnesses: Betsy Broder, Assistant Director of the Division of Privacy and Identity Protection at the Federal Trade Commission; Jason M. Weinstein, Deputy Assistant Attorney General in the Criminal Division of the Department of Justice; Mr. Daniel Bertoni, Director of Education, Workforce and Income Security at the Government Accountability Office; Ms. Catherine Allen, Chairman and Chief Executive Officer of The Santa Fe Group; Mr. Marc Rotenberg, Executive Director of the Electronic Privacy Information Center; Mr. Donald Rebovich, Executive Director of the Center for Identity Management and Information Protection; Ms. Anne Wallace, President of the Identity Theft Assistance Corporation; and Mr. Eric Handy, Representative of the Identity Theft Resource Center.

“Census Data and Its Use in Federal Formula Funding” (July 9, 2009). This hearing examined how census data is used to calculate funding levels and appropriations in federal programs, at the Congressional level and by federal agencies themselves. The hearing looked at what criteria are used in these funding decisions, whether Congress and the agencies factor in the undercount of certain communities in these calculations and whether the yearly estimates and other adjustments fairly allocate federal, state and local dollars. The hearing also investigated what steps Congress and the Administration should take to improve the present system.

Witnesses: Thomas Mesenbourg, Acting Director, U.S. Census Bureau; Robert Goldenkoff, Director, Strategic Issues, U.S. Government Accountability Office; Todd Richardson, Associate Deputy Assistant Secretary, Policy Development, U.S. Department of Housing and Urban Development; Donald Moulds, Acting Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services; Stuart Kerachsky, Acting Director of the National Center for Education Statistics, U.S. Department of Education; Carleton Finkbeiner, Mayor, City of Toledo, Ohio; Robert Bowser, Mayor, City of East Orange, New Jersey; Arturo Vargas, Executive Director, National Association of Latino Elected and Appointed Officials; Jamie Alderslade, Director, External Relations, The Social Compact, Inc.

“National Archives and Records Administration Organizational Issues” (July 30, 2009). The hearing examined the loss of an external hard drive containing copies of Clinton Administration Executive Office of the President data. The hearing provided an opportunity for representatives from the National Archives to inform the Subcommittee on how an incident like this occurred within the secure walls of a NARA facility and what was being done to make sure that this never happened again. The Subcommittee examined the steps NARA was taking to notify and assist the individuals whose privacy had been affected because their names and social security numbers were contained on the hard drive.

Witnesses: Ms. Adrienne C. Thomas, Acting Archivist of the United States National Archives and Records Administration; Mr. Gary M. Stern, General Counsel, National Archives and Records Administration; and Mr. Paul Brachfeld, Inspector General, National Archives and Records Administration.

“The 2010 Census Integrated Communications Campaign: Criteria for Implementation; Measurements for Success” (September 22, 2009). In 2007, the Census Bureau initiated an Integrated

Communications Campaign (ICC) which is aimed at reducing the 2010 undercount, reaching hard to count communities and achieving a full count Decennial Census. The Integrated Communications Campaign, originally funded in excess of \$200 million, is intended to be one of the most extensive and far-reaching marketing campaigns ever conducted. The ICC includes paid media, earned media, a national partnership program and the Census in Schools program. The ICC goals are to increase mail response, improve accuracy and improve cooperation with enumerators. Census' prime contractor for this project, DraftFCB, has developed the Paid Media Plan. The Media Plan encompasses television, radio, interactive, outdoor and transit, and print newspapers and magazines utilizing multiple languages and reaching into specific markets across the U.S. and Puerto Rico. This hearing examined the Integrated Communications Campaign in the context of the Office of the Inspector General report released August 14, 2009. The hearing focused on four specific areas as it the 2010 Census- cost, schedule, risk management, and transparency.

Witnesses: Dr. Robert Groves, Director, U.S. Census Bureau; Mr. Todd J. Zinser, Inspector General, U.S. Department of Commerce; Mr. Jeff Tarkajian, President, DRAFTFCB.

"National Archives: Advisory Committees and their Effectiveness" (October 20, 2009). This hearing explored how the National Archives and Records Administration (NARA) utilizes two different advisory committees in helping the agency fulfill its diverse and challenging mission.

Witnesses: Ms. Sharon Fawcett, Assistant Archivist for Presidential Libraries at the National Archives and Records Administration; Ms. Martha Morphy, Chief Information Officer at the National Archives and Records Administration; Mr. Robert Flaak, Director of the Committee Management Secretariat at the General Services Administration; and Dr. Christopher Greer, Assistant Director for Information Technology R&D at the White House Office of Science and Technology Policy and Member, Advisory Committee on the Electronic Records Archives.

"The 2010 Census Master Address Files: Issues and Concerns" (October 21, 2009). The Subcommittee's hearing on October 21, 2009, focused on the Census Bureau's progress in the compilation, scheduling, cost, and transparency of the Master Address File ("MAF"). The Subcommittee explored all aspects of the MAF, including, but not limited to, the LUCA appeal process, address canvassing, special Gulf Coast initiatives, budgetary matters, as well as the addition and deletion of addresses. The Bureau's interaction and cooperation with local and county government and stakeholders was explored. Additionally, the hearing tracked the efforts underway to fully ensure that addresses due to new construction, rehabilitated properties, non-traditional housing units and converted properties are also included in the address file.

Witnesses: Dr. Robert Groves, Director, U.S. Census Bureau; Mr. Todd Zinser, Inspector General, U.S. Department of Commerce; Mr. Robert Goldenkoff, Director, Strategic Issues, Government Accountability Office; Ms. Ilene Jacobs, Director, Litigation, Advocacy & Training, California Rural Legal Assistance, Inc.

"The National Archives' Ability to Safeguard the Nation's Electronic Records" (November 5, 2009). This hearing explored recent

instances of data breaches and possible breaches at the National Archives and Records Administration (NARA), and the status of the Electronic Records Archive (ERA).

Witnesses: Ms. Adrienne Thomas, Acting Archivist of the United States, National Archives and Records Administration; Mr. Paul Brachfeld, Inspector General of the National Archives and Records Administration; Mr. David Powner, Director of Information Technology Management Issues at the Government Accountability Office; and Mr. Alan E. Brill, Senior Managing Director for Technology Services at Kroll Ontrack.

“The 2010 Census: How Complete Count Committees, Local Governments, Philanthropic Organizations, Not-For-Profits and the Business Community Can Contribute to an Accurate Census” (December 2, 2009). This hearing provided an opportunity for Census stakeholders to provide testimony and a blueprint for those communities and governments seeking to form Complete Count Committees (CCC). The hearing also granted an opportunity to hear testimony from urban and rural local governments partnering with the business, philanthropic and not-for-profit organizations, in an effort to achieve an accurate Census 2010 count. Lastly, the Subcommittee explored all aspects of the CCC including, but not limited to, diversity of membership, activities, funding alternatives, and special initiatives in rural and urban settings. The Bureau’s interaction and cooperation with local and county governments and stakeholders was explored. Additionally, the hearing tracked the efforts underway by local governments to actively encourage Census participation. The Subcommittee also heard testimony on activities specific to “hard to count” communities.

Witnesses: Dr. William O’Hare, Senior Fellow, Annie E. Casey Foundation; Ms. Yvette Cumberbatch, Coordinator, NYC 2010 Census, New York City Government; Ms. Melanie Campbell, Executive Director, National Coalition on Black Civic Participation; Ms. Mercedes Lemp Jacobs, Director, Office of Latino Affairs, Washington DC Government; Mr. David Williams, Chair and Planning Director, Gaston County Complete Count Committee, Gaston County, Gastonia, North Carolina.

“History Museum or Records Access Agency? Defining and Fulfilling the Mission of the National Archives and Records Administration” (December 16, 2009). This hearing explored the proper balance between the National Archives’ core mission of records management, preservation and access, and its creation and management of museum exhibits, educational and public programs and other outreach efforts.

Witnesses: The Honorable David S. Ferriero, Archivist of the United States, National Archives and Records Administration; The Honorable G. Wayne Clough, Secretary of the Smithsonian Institution; The Honorable James H. Billington, Librarian of Congress; Ms. Anne L. Weismann, Chief Counsel for Citizens for Ethics and Responsibility in Washington; Ms. Janet A. Alpert, President of the National Genealogical Society; Mr. Kevin M. Goldberg, Legal Counsel for the American Society of Newspaper Editors; and Mr. Carl Malamud, President and Founder of Public.Resource.Org.

“The 2010 Census: Enumerating People Living in Group Quarters” (February 22, 2010). The field hearing in Brooklyn, New York assessed census efforts to enumerate persons residing in the

United States who do not live in housing units such as single family houses, apartments and mobile homes. Group quarters include, but are not limited to dormitories, military barracks, correctional facilities, migrant worker dormitories, juvenile institutions, convents and group homes. This hearing focused on the challenges of counting these populations, as well as suggestions for possible improvements. The hearing allowed the Census Director an opportunity to detail activities and update efforts.

Witnesses: Dr. Robert Groves, Director, U.S. Census Bureau; Mr. Robert Goldenkoff, Director, Strategic Issues, Government Accountability Office; Mr. Peter Wagner, Executive Director, Prison Policy Initiative; Mr. Thomas Ellett, Associate Vice President, Student Affairs, New York University.

“The 2010 Census Communication Contract: The Media Plan in Hard to Count Areas” (February 24, 2010). This hearing examined the 2010 Census Integrated communications campaign in traditionally “Hard to Count” areas, as the Census Bureau prepared for the 2010 decennial Census. The hearing assessed the ethnic and print and broadcast media’s role in preventing an undercount. The hearing further examined the media plan for impacting traditional Hard to Count populations in the various communities including, but not limited to African-American, Latino, Asian, Arab, Native American and Caribbean populations. The hearing highlighted in particular the importance and impact of specific mediums in reaching individuals and families in Hard to Count areas. Further, the presence of traditional, local print and broadcast media in the Census 2010 endeavor was measured.

Witnesses: Dr. Robert Groves, Director, U.S. Census Bureau; Mr. Jeff Tarkajian, President, DRAFTFCB; Ms. Robbyn Ennis, Media Director, Global Hue; Mr. Nelson Garcia, Senior Vice President, Global Hue Latino; Ms. Karen Narasaki, Executive Director, Asian American Justice Center; Mr. Arturo Vargas, Executive Director, National Association of Latino Elected Officials; Ms. Helen Hatab Samhan, Executive Director, Arab American Institute Foundation; Mr. James Winston, Executive Director, National Association of Black Owned Broadcasters; Ms. Sandy Close, Executive Director, New American Media; Mr. Marcelo Gaete-Tapia, Vice President, Entravision Communication Corporation; Mr. Danny Bakewell, Chairman, National Newspaper Publishers Association; Ms. Linda Smith, Executive Director, National Association of American Child Care Resources and Referral Agencies.

“Census 2010: Hard to Count Populations with Special Living Arrangements” (March 8, 2010). This field hearing examined and discussed efforts to enumerate the Hard to Count populations with special living conditions including, but not limited to the following populations: the homeless, veterans, college students, and nursing home residents.

Witnesses: Honorable Mark Mallory, Mayor, Cincinnati, Ohio; Mr. Thomas L. Mesenbourg, Acting Deputy Director, U.S. Census Bureau; Mr. David Scharfenberger, Director of Training, Working in the Neighborhoods, Inc.; Mr. Jason Riviero, State Director, Ohio League of United Latin American Citizens; Ms. Suzanne Hopkins, Director, Programs for The Center of Independent Living Options; Mr. Josh Spring, Executive Director, Greater Cincinnati Coalition

for the Homeless; Mr. Todd Duncan, Director of Housing and Food Services, University of Ohio.

“Administration of the Freedom of Information Act: Current Trends” (March 18, 2010). This hearing examined how agencies process and respond to Freedom of Information Act (FOIA) requests, and discussed current FOIA developments.

Witnesses: Ms. Melanie Pustay, Director of the Office of Information Policy at the Department of Justice; Ms. Miriam Nesbit, Director of the Office of Government Information Services at the National Archives and Records Administration; Mr. Larry F. Gottesman, National Freedom of Information Act Officer, Office of Environmental Information at the Environmental Protection Agency; Ms. Valerie C. Melvin, Director of Information Management and Human Capital Issues at the Government Accountability Office; Mr. David Sobel, Senior Counsel to the Electronic Frontier Foundation; Ms. Sarah Cohen, the Knight Professor of Journalism at Duke University; Ms. Adina H. Rosenbaum, Director of the Freedom of Information Clearinghouse at Public Citizen; Dr. David Cuillier, Assistant Professor at the University of Arizona School of Journalism; and Mr. Tom Fitton, President of Judicial Watch.

“The 2010 Census: An Assessment of the Census Bureau’s Preparedness” (March 25, 2010). This hearing provided an opportunity for the Census Director to provide testimony on the readiness of the Bureau to conduct the 2010 Census. This assessment includes, but is not limited to, the status of key IT systems and updates on specific operations. Further, the hearing will address advancements the Census Bureau has made to address ongoing internal challenges, performance issues and project management.

Witnesses: Mr. Arnold Jackson, Associate Director, U.S. Census Bureau; Mr. Robert Goldenkoff, director Strategic Issues, Government Accountability Office; Ms. Judy Gordon, Associate Deputy Director, U.S. Department of Commerce, Office of the Inspector General.

“The 2010 Census: Participation of Hard to Count Communities in Non-Response Follow Up” (April 30, 2010). This Los Angeles field hearing examined ways to increase participation on the Census 2010 non-response follow up efforts. The subcommittee explored all aspects of Complete Count Committees and focused on special initiatives in rural and urban settings. Lastly, the Census Bureau’s cooperation with local and county governments and stakeholders was explored. This hearing further allowed the Census Bureau to exhibit its lessons learned in developing a best practices guide for future census outreach.

Witnesses: Honorable Antonio Villaraigosa, Mayor, City of Los Angeles; Honorable Mona Pasquil, former Acting Lt. Governor, State of California; Honorable John Perez, Speaker of the Assembly, State of California; Dr. Robert Groves, Director, U.S. Census Bureau; Mr. Robert Goldenkoff, Director of Strategic Issues, Government Accountability Office; Dr. Robert Ross, President, California Endowment; Ms. Gina Montoya, Chief Administrative Officer, Mexican American Legal Defense and Educational Fund.

“Strengthening the National Historical Publications and Records Commission” (June 9, 2010). This hearing reviewed the success of the Commission’s grant programs over the last 45 years; examined the major changes to archives, records and historical research since

the current authorized funding level was set in 1988; and discussed expanding the funding and scope of its grants programs in order to bring the Commission in line with current and future needs.

Witnesses: The Honorable John B. Larson, Member, U.S. House of Representatives and Member, National Historical Publications and Records Commission; The Honorable David S. Ferriero, Archivist of the United States and Chairman of the National Historical Publications and Records Commission; Ms. Kathleen M. Williams, Executive Director of the National Historical Publications and Records Commission, National Archives and Records Administration; Mr. Michael R. Beschloss, Presidential Historian and Vice President of the Board of Directors, the Foundation for the National Archives; Dr. Steven Hahn, Roy F. and Jeannette P. Nichols Professor of History at the University of Pennsylvania; Ms. Karen Jefferson, Head of Archives and Special Collections at Atlanta University Center; Dr. Ira Berlin, Distinguished University Professor at the University of Maryland and Representing the American Historical Association; Dr. Pete Daniel, Curator, National Museum of American History (Retired) and Representing the Organization of American Historians; Dr. Peter Gottlieb, State Archivist of Wisconsin and Representing the Society of American Archivists; Ms. Barbara Franco, Director, Pennsylvania Historical and Museum Commission and Representing the American Association of State and Local History; Ms. Barbara Teague, Kentucky State Archivist and Records Administrator and Representing the Council of State Archivists; Ms. Kaye Lanning Minchew, Director of Archives for Troup County, Georgia and Representing the National Association of Government Archives & Records Administrators; and Ms. Susan Holbrook Perdue, Director of Documents Compass at the Virginia Foundation for the Humanities and Representing the Association for Documentary Editing.

“Federal Electronic Records Management: A Status Report” (June 17, 2010). This hearing reviewed the management of electronic records at federal agencies and explored ways to improve the scheduling and preservation of electronic records.

Witnesses: The Honorable David S. Ferriero, Archivist of the United States, National Archives and Records Administration; Mr. Jason Baron, Director of Litigation at the National Archives and Records Administration; Mr. Paul Wester, Director of the Modern Records Program at the National Archives and Records Administration; Mr. David M. Wennergren, Deputy Assistant Secretary of Defense for Information Management, Integration and Technology and Deputy Chief Information Officer at the Department of Defense; Ms. Valerie C. Melvin, Director of Information Management and Human Capital Issues at the General Accountability Office; Dr. Gregory S. Hunter, Associate Professor of Library and Information Science at Long Island University—C.W. Post Campus; Ms. Carol Brock, Certified Records Manager and Representing ARMA International; and Ms. Anne Weismann, Chief Counsel for Citizens for Ethics and Responsibility in Washington.

“Government 2.0, Part I: Federal Agency Use of Web 2.0 Technologies” (July 22, 2010). This hearing reviewed federal agency use, under the Federal Records Act, of Web 2.0 technologies that promote transparency, collaboration and participation, and examined the records management implication of those technologies.

Witnesses: The Honorable David S. Ferriero, Archivist of the United States, National Archives and Records Administration; Dr. David McClure, Associate Administrator of the Office of Citizen Services and Innovative Technologies at the General Services Administration; Mr. Gregory C. Wilshusen, Director of Information Security Issues at the General Accountability Office; and Mr. John M. Simpson, Stem Cell Project Director at Consumer Watchdog.

“Public Access to Federally-Funded Research” (July 29, 2010). This hearing reviewed the current state of public access to federally-funded research in science, technology and medicine. The hearing provided an opportunity to assess the issues surrounding public access policies, including the impact of increasing public access on scientists, physicians, and researchers.

Witnesses: Mr. Allan Adler, Vice President of Government Affairs at the Association of American Publishers; Dr. Steven Breckler, Executive Director for Science at the American Psychological Association; Professor Ralph Oman, Pravel Professorial Lecturer in Intellectual Property Law Fellow at The George Washington University Law School; Dr. Richard Roberts, Chief Scientific Officer at New England Biolabs; Ms. Sharon Terry, President/CEO of the Genetic Alliance; Mr. Elliott Maxwell, Project Director of the Digital Connections Council at the Committee for Economic Development; Dr. Sophia Colamarino, Vice President of Research at Autism Speaks; Dr. David Shulenburg, Vice President of Academic Affairs at the Association of Public and Land-Grant Universities; Ms. Catherine Nancarrow, Managing Editor of the Public Library of Science Community Journals; and Dr. David Lipman, Director of the National Center for Biotechnology Information, National Library of Medicine, at the National Institutes of Health.

b. Business Meetings

National Historical Publications and Records Commission Act of 2010 (July 1, 2010). This business meeting was held to review and mark up the National Historical Publications and Records Commission Act of 2010 (H.R. 5616). The Subcommittee approved H.R. 5616 by recorded vote (6–1) and reported the bill to the Committee on Oversight and Government Reform.

3. Oversight Correspondence

- March 30, 2009—Letter to Census Bureau requesting supplemental information with regard to the Partnership Program and the Integrated Communications Campaign.

- April 30, 2009—Joint Request letter to GAO regarding the Bureau’s readiness to conduct key census-taking operations, the identification and management of risks, and the extent to which these operations are on track.

- June 11, 2009—Letter requesting details of Census Bureau’s fingerprinting program, including but not limited to expenditures, efficiency, error rate, and criminal backgrounds of potential enumerators.

- June 19, 2009—Request letter seeking clarification of Census Coverage Measurement program, including potential magnitude of errors, accuracy of enumeration, and use in allocation of funding to governments, cities, and sub-state areas.

- July 31, 2009—Letter from Chairman Clay giving public comment on the U.S. Census Bureau's New Construction Program.
- September 9, 2009—Letter from Chairman Clay to GAO regarding a request to study federal assistance programs, census data, and allocation formulas.
- September 9, 2009—Letter to Census Bureau from Chairman Clay regarding a request for specific information detailing the Census Communications Campaign.
- September 25, 2009—Chairman Clay and Ranking Member's condolence letter to Dr. Groves upon learning of the death of Census 2010 enumerator, William Sparkman.
- September 30, 2009—Letter to Census Bureau concerning the details of the 2010 Census Fingerprinting Program. Request for documentation related to discussions between the Census Bureau and the Federal Bureau of Investigation.
- October 6, 2009—Request letter from Chairman Clay to Census Bureau regarding Census Bureau Pilot Program and Census Challenge Program.
- October 7, 2009—Chairman Clay's letter to the Census Bureau requesting additional information on the Bureau's Census Coverage Measurement Program.
- October 30, 2009—Chairman Clay's letter to the Census Bureau requesting additional information about the Bureau's ink and paper fingerprinting plan for enumerators.
- October 30, 2009—Letter from Chairman Clay to Acting Archivist Adrienne C. Thomas requesting complete documentation on the National Archives' plan to renovate public areas of the main Archives Building and to decrease research space.
- November 3, 2009—Request letter for additional information with regard to the Bureau's Communications Campaign spending with minority media in traditionally hard to count areas.
- November 18, 2009—Chairman Clay's letter to the Bureau discussing and seeking information regarding the readiness of the payroll system and the paper based operational system.
- November 24, 2009—Letter to GAO from Chairman Clay requesting an assessment of NARA's use of earned value management in regard to the Electronic Records Archives.
- December 11, 2009—Letter to GAO from Chairman Clay requesting an assessment of the Census Bureau's readiness for the headcount and its implementation of key census activities.
- January 12, 2010—Letter to GAO from Chairman Clay requesting an assessment of the relationship between NARA's Presidential libraries and the private foundations that build and support them.
- January 14, 2010—Letter to Census Bureau requesting information about media contacts and contracts in traditionally hard to count areas.
- March 3, 2010—Request letter to Census Bureau seeking information relative to minority partnership in the media campaign.
- April 15, 2010—Letter to GAO from Chairman Clay requesting an assessment of the management and protection of information collected and maintained by commercial providers of social media services on behalf of or in association with federal agencies.

- April 15, 2010—Joint “Dear Colleague” sent to house members encouraging them to contact their constituents and encourage participation in Census 2010.
- April 21, 2010—Request letter to the Census Bureau requesting clarification and information from Census media contractors as to statements made at the Los Angeles field hearing.
- May 20, 2010—Letter from Chairman Clay to Archivist David S. Ferriero requesting complete documentation the plans to handle the paper records of the 2010 Decennial Census.
- May 20, 2010—Letter from Chairman Clay to the Census Bureau requesting complete documentation the plans to handle the paper records of the 2010 Decennial Census.
- May 20, 2010—Letter from Chairman Clay to Archivist David S. Ferriero requesting that NARA investigate and document the possibility that the Bush Administration failed to archive millions of federal records in the form of e-mails.
- August 12, 2010—Letter from Chairman Clay to Archivist David S. Ferriero requesting documentation on the status, plans, capabilities and requirements of the Electronic Records Archives.
- August 19, 2010—Letter from Chairman Clay to the NARA Inspector General requesting information and documentation regarding IG audits of NARA information technology projects.

E. SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS

The Subcommittee on National Security and Foreign Affairs has oversight jurisdiction over U.S. national security, homeland security, and foreign affairs. In the 111th Congress, Rep. John F. Tierney served as Chairman and Rep. Jeff Flake as Ranking Member.

During this Congress, the Subcommittee conducted robust, sustained, and constructive oversight. Members and staff addressed a wide range of subjects aimed at making U.S. national security agencies and policies smarter, stronger, more economically efficient, more effective, more cooperative and coordinated, and more accountable to the American taxpayers and men and women in uniform.

Among others, the Subcommittee conducted oversight of the U.S. Departments of Defense, State, Homeland Security, and Veteran’s Affairs, the U.S. Agency for International Development, major government contractors, and non-governmental organizations.

The Subcommittee held 30 hearings on a wide range of pressing national security issues; hosted countless briefings for the benefit of Subcommittee Members and the public; dispatched numerous fact-finding trips by Subcommittee Members and staff; commissioned over 20 investigations and reports by the U.S. Government Accountability Office; and conducted oversight investigations exposing millions of dollars of government waste, fraud, and abuse. In addition to the summaries below, testimony, member and witness statements, and archived webcasts can be found on the Subcommittee’s website: <http://nationalsecurity.oversight.house.gov>.

1. Confronting the Crisis in Afghanistan and Pakistan

U.S. relations with and operations in Afghanistan and Pakistan have been a central focus of the Subcommittee’s oversight efforts during the 111th Congress. The Subcommittee has closely and

thoughtfully directed its oversight to examine the nature of the threats to U.S. national security emanating from the region and U.S. efforts to combat terrorism, to bolster civil society and governance, and to improve and strengthen relations with Pakistani and Afghan leaders. Throughout this sustained oversight effort the Subcommittee has sought to ensure greater interagency cooperation, a more careful and strategic distribution of military and civilian resources, improved aid effectiveness, and enhanced mechanisms to ensure that the government is accountable for the health and safety of its warfighters and the actions of its growing number of contractors.

a. Hearings

February 2, 2009, the Subcommittee held a hearing titled “Training and Equipping Afghan Security Forces: Unaccounted Weapons and Strategic Challenges.” Witnesses included Charles Johnson, Director of International Affairs and Trade, U.S. Government Accountability Office; Thomas Gimble, Principal Deputy Inspector General, U.S. Department of Defense; and Mark Schneider, Senior Vice President, International Crisis Group.

March 3, 2009, the Subcommittee held a hearing titled “Afghanistan and Pakistan: Understanding a Complex Threat Environment.” Witnesses included Peter Bergen, Schwartz Senior Fellow at New America Foundation; Joshua T. White, Research Fellow at the Institute for Global Engagement and Ph.D. Candidate at Johns Hopkins School for Advanced International Studies; and Dr. Paul R. Pillar, Visiting Professor and Director of Studies, Security Studies Program at Georgetown University.

March 26, 2009, the Subcommittee held a hearing titled “Troops, Diplomats, and Aid: Assessing Strategic Resources for Afghanistan.” Witnesses included Lieutenant General David W. Barno (U.S. Army Ret.), Director, Near East South Asia Center for Strategic Studies, National Defense University; Amb. James Dobbins, Director of the Center for International Security and Defense Policy, RAND Corporation; Dr. Frederick W. Kagan, Resident Scholar at the American Enterprise Institute for Public Policy Research; and Dr. David Kilcullen, Senior Non-Resident Fellow at the Center for a New American Security.

March 31, 2009, the Subcommittee held a hearing titled “Afghanistan and Pakistan: Understanding and Engaging Regional Stakeholders.” Witnesses included Amb. Wendy J. Chamberlain, President of the Middle East Institute; Lisa Curtis, Senior Research Fellow, South Asia, Asian Studies Center, The Heritage Foundation; Dr. Deepa M. Ollapally, Associate Director of the Sigur Center for Asian Studies at The George Washington University Elliott School; Dr. Sean R. Roberts, Director, International Development Studies Program, The George Washington University; and Karim Sadjadpour, Associate, Middle East Program, the Carnegie Endowment for International Peace.

May 19, 2009, the Subcommittee held a hearing titled “Afghanistan and Pakistan: Resourcing the Civilian ‘Surge’.” Witnesses included Paul Jones, Deputy Assistant Secretary of State, South and Central Asia Bureau; David S. Sedney, Deputy Assistant Secretary of Defense for Central Asian Affairs; James A. Bever, Deputy Assistant Administrator, Asia and Near East Bureau, U.S. Agency for

International Development; Michael Michener, Administrator, Foreign Agricultural Service, U.S. Department of Agriculture; and Amb. John Herbst, Coordinator, Office of Reconstruction and Stabilization, U.S. Department of State.

June 16, 2009, the Subcommittee held a hearing titled "U.S. Contributions to the Response to Pakistan's Humanitarian Crisis: The Situation and the Stakes." Witnesses included Dr. Samina Ahmed, South Asia Project Director for the International Crisis Group; Sherry Rehman, Former Federal Minister for Information and Broadcasting and Member National Assembly, Pakistan Peoples Party; Kenneth Bacon, President, Refugees International; and Michel Gabaudan, Regional Representative to the U.S. and Caribbean for the United Nations High Commissioner for Refugees.

June 24, 2009, the Subcommittee held a joint hearing with the Committee on Oversight and Government Reform titled "Afghanistan and Pakistan: Oversight of a New Interagency Strategy." Witnesses included Amb. Richard Holbrooke, U.S. Special Representative for Afghanistan and Pakistan and Wallace "Chip" Gregson, Assistant Secretary of Defense for Asian and Pacific Affairs.

July 14, 2009, the Subcommittee held a hearing titled "U.S. Promotion of the Afghan Economy: Impediments and Opportunities." Witnesses included Mildred Callear, Executive Vice President and Chief Operating Officer, Small Enterprise Assistance Funds and Afghan Growth Fund, Executive board Member; Dr. Mohammad Usman, Agricultural Economist; Aly Mawji, Aga Khan Development Network, Afghanistan Country Director; and Jeremy Pam, Esq., Visiting Research Scholar, Sustainable Development, U.S. Institute of Peace.

September 9, 2009, the Subcommittee held a hearing titled "Afghanistan and Pakistan: Accountability Community Oversight of a New Interagency Strategy." Witnesses included Major General Arnold Fields (USMC Ret.), Special Inspector General for Afghanistan Reconstruction; Gordon Heddell, Inspector General, Department of Defense; Harold Geisel, Inspector General, U.S. Department of State; Donald Gambatesa, Inspector General, U.S. Agency for International Development; and Jacquelyn Williams-Bridgers, Managing Director, International Affairs and Trade, U.S. Government Accountability Office.

November 19, 2009, the Subcommittee held a hearing titled "Afghan Elections: What Happened and Where Do We Go From Here?" Witnesses included J. Alexander Thier, Director for Afghanistan and Pakistan, U.S. Institute of Peace; Amb. Peter J. Galbraith; Gils Dorransoro, Visiting Scholar, Carnegie Endowment for International Peace; and Dr. Ashley Tellis, Senior Associate, Carnegie Endowment for International Peace.

December 9, 2009, the Subcommittee held a hearing titled "U.S. Aid to Pakistan: Planning and Accountability." Witnesses included Dr. Christine Fair, Center for Peace and Security Studies, Georgetown University; Dr. Andrew Wilder, Research Director for Policy Process, Feinstein Center, Tufts University; and Dr. Samina Ahmed, South Asia Project Director, International Crisis Group.

March 16, 2010, the Subcommittee held a hearing titled "U.S. Aid to Pakistan (Part II): Planning and Accountability." Witnesses included Daniel Feldman, Deputy to the Special Representative for Afghanistan and Pakistan, U.S. Department of State; James A.

Bever, Director, Afghanistan-Pakistan Task Force, and Deputy Assistant Administrator, Asia and Near East Bureau, U.S. Agency for International Development.

April 22, 2010, the Subcommittee held a hearing titled “Crisis in Kyrgyzstan: Fuel, Contracts, and Revolution along the Afghan Supply Chain.” Witnesses included Dr. Eugene Huskey, Professor, Stetson University; Amb. Baktybek Abdrisaev, Lecturer, Utah Valley University; Dr. Alexander Cooley, Professor, Barnard College at Columbia University; Scott Horton, Professor, Columbia Law School, and Contributing Editor, *Harper’s Magazine*; and Sam Paten, Senior Program Manager, Eurasia, Freedom House.

June 22, 2010, the Subcommittee held a hearing titled “Investigation of Protection Payments for Safe Passage along the Afghan Supply Chain.” Witnesses included Lieutenant General William Phillips, Principal Military Deputy to the Assistant Secretary of the Army for Acquisition, Logistics, and Technology, Office of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology, U.S. Army; Gary Motsek, Assistant Deputy Under Secretary of Defense for Program Support, Office of the Under Secretary of Defense for Acquisition, Technology & Logistics, U.S. Department of Defense; Brigadier General John Nicholson, Director of the Pakistan/Afghanistan Coordination Cell, The Joint Staff, U.S. Department of Defense; Moshe Schwartz, Specialist in Defense Acquisition, Congressional Research Service; Carl Forsberg, Research Analyst, Institute for the Study of War; Colonel T.X. Hammes, Senior Research Fellow, Institute for National Strategic Studies, National Defense University; and Dr. S. Frederick Starr, The Paul H. Nitze School of Advanced International Studies, Johns Hopkins University.

b. Official Travel/Delegations

The Subcommittee led a Congressional Delegation to conduct oversight in *Qatar, Pakistan, and Afghanistan from January 28–February 3, 2009*. The delegation examined (1) U.S. aid accountability and effectiveness in Afghanistan, including assessing the capacity of various U.S. government agencies and existing personnel; (2) U.S. counterterrorism policy and programs as well as aid accountability and effectiveness related to Pakistan; (3) regional context and geopolitics related to both Afghanistan and Pakistan; (4) civilian law enforcement capacity in Pakistan and Afghanistan, including assessing the progress of Afghan police training; (5) targeting procedures in Afghanistan in light of civilian casualties and the deleterious effect such casualties have on counterinsurgency strategy; and (6) the NATO mission in Afghanistan. The delegation included Chairman John Tierney, Rep. Chris Van Hollen, Rep. Peter Welch, Rep. Christopher Murphy, Rep. George Miller, Rep. Ron Kind, and Subcommittee staff.

The Subcommittee led a Congressional Delegation to *Pakistan to conduct oversight on November 9–15, 2009*. Specifically, the delegation looked at (1) regional perspectives on U.S. military and civilian efforts in Afghanistan; (2) South Asian geopolitical considerations; (3) U.S.-Pakistan relations and program accountability; (4) U.S.-India relations and program accountability; (5) Counter-terrorism efforts across South Asia; and (6) the North Atlantic Treaty Organization (NATO) mission in Afghanistan through the lens of coordi-

nation of diplomatic, military, and development efforts among NATO allies. The delegation included Chairman John Tierney, Rep. Peter Welch, Rep. George Miller, Rep. Ron Kind, and Subcommittee staff.

The Subcommittee led a delegation to *Romania, Pakistan, Afghanistan, and Tunisia from January 27–February 27, 2010*. During its official business in Romania, the delegation examined the progress of regional efforts to combat terrorist financing and money laundering activities. While in Pakistan, the delegation assessed the current political and security climate in the region through a series of coordinated meetings with Government of Pakistan and U.S. government officials. In Afghanistan, Members and staff examined the progress of regional military, security, political, and reconstruction efforts through coordinated meetings with U.S. government officials, U.S. military personnel, Afghan National Army representatives, U.S. Agency for International Development representatives, and officials from the Office of the Special Inspector General for Afghanistan Reconstruction. Finally, during its official business in Tunisia, the delegation conducted discussions with U.S. government and Tunisian Republic government officials regarding the status of U.S.-Tunisia bilateral relations, regional security efforts, and counter-terrorist cooperation. The delegation included Rep. Stephen F. Lynch, Rep. Bob Inglis, Rep. Betty Sutton, Rep. Todd Platts, Rep. Joe Donnelly, and Subcommittee staff.

c. Briefings and Other Activities

- On March 3, 2009, the Subcommittee held a briefing by the Office of the Secretary of Defense about arms accountability in Afghanistan.
- On March 18, 2009, the Subcommittee received a classified briefing from the Office of the Director of National Intelligence (ODNI) on the nature of threats to U.S. national security interests emanating from Afghanistan and Pakistan.
- On March 31, 2009, the Subcommittee received a briefing from Bruce Reidel of the Brookings Institution on his Af-Pak strategy review.
- On June 18, 2009, the Subcommittee received a briefing on the political situation in Pakistan by Imran Khan, a Pakistani political leader and activist.
- On September 9, 2009, the Subcommittee received a briefing on security in Karachi, Pakistan from Vali Nasr.
- On October 28, 2009, the Subcommittee received a briefing by The Asia Foundation on its Afghanistan survey.
- On December 8, 2009, the Subcommittee received a briefing on counternarcotics programs in Afghanistan.
- On May 19, 2010, the Subcommittee hosted an official luncheon with Members of the Standing Committee on Defense and Defense Production of the Senate of Pakistan.

d. Reports Commissioned or Requested

- On February 23, 2009, the Subcommittee received a requested U.S. Government Accountability Office report titled *Securing, Stabilizing, and Developing Pakistan's Border Area with Afghanistan: Key Issues for Congressional Oversight*.

2. *Wartime Contracting*

With the U.S. military stretched between two wars and dozens of other commitments around the globe, military planners have come to rely increasingly on private contractors to provide important support services over the last decade. This has allowed the United States to concentrate more of its forces on combat operations, but it has also created the potential for corruption and waste and thus a new area for vigilant oversight. During the 111th Congress, the Subcommittee initiated two major oversight investigations of Department of Defense contracts supporting the war in Afghanistan that have exposed waste, corruption, and failures to properly vet and oversee contracts that are both lucrative and strategically critical. One was released in a majority staff report that exposed rampant extortion and corruption along the military's supply lines in Afghanistan. The Subcommittee's oversight effort also included two hearings.

a. Hearings

June 10, 2009, the Subcommittee held a hearing titled "Commission on Wartime Contracting: Interim Findings and Path Forward." Witnesses included Michael J. Thibault, Commissioner and Co-Chair, Commission on Wartime Contracting; Christopher Shays, Commissioner and Co-Chair, Commission on Wartime Contracting; Charles Tiefer, Commissioner, Commission on Wartime Contracting; Grant S. Green, Commissioner, Commission on Wartime Contracting; and Alan Chvotkin, Executive Vice President & Counsel, Professional Services Council.

June 29, 2010, the Subcommittee held a hearing titled "Contracting in Combat Zones: Who Are Our Subcontractors?" Witnesses included William Solis, Director, Defense Capabilities and Management, U.S. Government Accountability Office; Mary Ugone, Deputy Inspector General for Auditing, U.S. Department of Defense Inspector General; Stuart Bowen, Jr., Special Inspector General for Iraq Reconstruction; and Richard Fontaine, Senior Fellow, Center for a New American Security.

b. Official Travel/Delegations

Subcommittee staff travelled to *Dubai, United Arab Emirates on May 24–29, 2010* to conduct interviews as part of the Subcommittee's investigation into the Department of Defense's Host Nation Trucking contract in Afghanistan. Subcommittee staff met with and formally interviewed Afghan and American private security commanders and company executives with first hand knowledge of convoy operations and HNT contractors in Afghanistan.

Subcommittee staff traveled to *Scott Air Force Base in St. Louis on July 30, 2010* to meet with General Duncan McNabb, Commander of U.S. Transportation Command, and his staff. Subcommittee staff received a series of detailed briefings from logistics officers from all of the service branches, intelligence officers, and contractors on the status of the military's Northern Distribution Network, which facilitates the transport of all goods and military materiel to Afghanistan in support of the war effort.

Subcommittee staff traveled to *Bishkek, Kyrgyzstan and London, England on August 10–19, 2010* to conduct interviews and meetings as part of the Subcommittee's investigation into corruption al-

legations surrounding the Department of Defense's two primary jet fuel suppliers for the war in Afghanistan. Staff met with Kyrgyz officials and politicians, U.S. military commanders and officers, and subject matter experts, formally interviewed the principals of the two companies, and received a briefing and tour of the Manas Transit Center from the commanding U.S. officer.

c. Investigations and Reports

In December 2009, the Subcommittee began an oversight investigation into the Host Nation Trucking (HNT) Contract, which is responsible for transporting and distributing over 70 percent of goods and materiel in Afghanistan to U.S. troops. The investigation was initiated in response to public reporting that Afghan private security companies that were subcontracted to protect the HNT truck convoys were engaging in extortion, warlordism, and excessive violence and that the elements of the military responsible for contractor oversight were aware of the behaviour but were either unable or unwilling to respond. Some reporting had also suggested that the security companies were paying members of the Taliban. Subcommittee staff conducted over 30 formal interviews in Washington, DC and Dubai. Witnesses included trucking and security contractors, Afghan commanders and powerbrokers, and military and Department of Defense officials. The Subcommittee also reviewed nearly 100,000 documents produced by witnesses. Chairman Tierney and the Subcommittee majority staff released the findings of the investigation in an 80-Page report titled *Warlord, Inc.: Extortion and Corruption along the U.S. Supply Chain in Afghanistan*. The report concluded that: (1) Security for the U.S. supply chain is principally provided by warlords; (2) the highway warlords run a protection racket; (3) protection payments for safe passage are a significant potential source of funding for the Taliban; (4) unaccountable supply chain security contractors fuel corruption; (5) unaccountable supply chain security contractors undermine U.S. counterinsurgency strategy; (6) the Department of Defense lacks effective oversight of its supply chain and private security contractors in Afghanistan; and (7) HNT contractors warned the Department of Defense about protection payments for safe passage to no avail.

In April 2010, the Subcommittee began an investigation into the Department of Defense's jet fuel contracts at the Manas Transit Center in Bishkek, Kyrgyzstan and their contribution to corruption and revolution within Kyrgyzstan. Subcommittee staff has reviewed over 150,000 documents from the Departments of Defense and State and the two primary contractors. The Subcommittee also formally interviewed the principal executives of the companies in London, England, and travelled to Bishkek to meet with the base commander and officers at the Manas Transit Center, as well as several Kyrgyz officials and international whistleblowers. The investigation is ongoing.

3. Improving Healthcare and Preventing Sexual Assault in the Military

The Subcommittee conducted extensive oversight aimed at ensuring that the U.S. is doing everything possible to protect the health, safety, and well-being of its troops and their families. This included

rigorous oversight of the military healthcare system, the improvement of military housing, standards of care, and long-term physical and mental health care for seriously injured soldiers. It has also included efforts to prevent, treat, and prosecute sexual assaults perpetrated by and against service members.

In the three years since the Walter Reed scandal, Subcommittee Members and staff have visited the facility to ensure that necessary improvements have been made. The Subcommittee has also made a sustained effort to strengthen the military's sexual assault, sexual harassment, and domestic violence prevention and response programs. During the 111th Congress this effort included three hearings and a U.S. Government Accountability Office follow-on investigation to track the Department of Defense's progress in expanding and improving its sexual assault prevention and response.

a. Hearings

June 26, 2009, the Subcommittee held a hearing titled "Sexual Assault in the Military Part III: Context and Causes." Witnesses included Dr. Veronique Valliere, President of Valliere & Counseling Associates, Inc.; Dr. Fred Berlin, Founder of the National Institute for the Study, Prevention, and Treatment of Sexual Trauma and the Director of the Johns Hopkins Sexual Disorders Clinic; Dr. Elizabeth Hillman, Law Professor at the University of California Hastings; and Professor Helen Benedict, Author *The Lonely Soldier: The Private War of Women Serving in Iraq*, and Professor of Journalism at Columbia University.

On February 24, 2010, the Subcommittee held a hearing titled "Sexual Assault in the Military Part IV: Are We Making Progress?" Witnesses included Gail McGinn, Deputy Under Secretary of Defense (Plans), U.S. Department of Defense; Dr. Kaye Whitley, Director, Sexual Assault Prevention and Response Office, U.S. Department of Defense; Dr. Louis Iasiello, and Brigadier General Sharon Dunbar, Defense Task Force on Sexual Assault in the Military Services; Brenda Farrell, Director, Defense Capabilities and Management, and Randolph Hite, Director, Information Technology Architecture and Systems, U.S. Government Accountability Office; and Merle Wilberding, Coolidge Wall.

b. Official Travel/Delegations

Subcommittee staff visited and inspected the *Walter Reed Medical Facility in Washington, D.C. on August 20, 2009* to continue its oversight of the facility and assess the status of reforms and renovations to the facility.

Members of the Subcommittee toured and inspected the *Walter Reed Medical Facility in Washington, D.C. on September 24, 2009* and met with patients and administrators to continue its oversight of the facility and assess the reforms, renovations, and improvements in the quality of care.

c. Briefings

Throughout August and September 2010, the Subcommittee hosted four separate briefings for Members and staff by each of the military service branches and the Department of Defense's Sexual Assault Prevention and Response Office. The briefers explained the structure of their respective programs to Members and staff and

assessed the progress that had been made since the Subcommittee's initial series of hearings and U.S. Government Accountability Office investigations.

d. Reports Commissioned or Requested

- On January 26, 2009, the Subcommittee received a requested U.S. Government Accountability Office report titled *VA Vocational Rehabilitation and Employment: Better Incentives, Workforce Planning, and Performance Reporting Could Improve Program*.

- On April 20, 2009, the Subcommittee received a requested U.S. Government Accountability Office report titled *Army Health Care: Progress Made in Staffing and Monitoring Units that Provide Outpatient Case Management, but Additional Steps Needed*.

- On October 6, 2009, Chairman Tierney requested a U.S. Government Accountability Office investigation of the Department of Defense's efforts to prevent and adequately respond to incidents of sexual harassment involving service members, which is pending.

- On December 8, 2009, Chairman Tierney and Ranking Member Flake requested a U.S. Government Accountability Office report on the standards for credentialing medical professionals in the military following the shooting incident at Ft. Hood, which is pending.

- On October 13, 2010, the Subcommittee received a requested U.S. Government Accountability Office report titled *Sustained Leadership and Oversight Needed to Improve DOD's Prevention and Treatment of Domestic Abuse*.

4. Making the Government's National Security Sector Smarter and More Efficient

During the 111th Congress the Subcommittee sought to investigate, expose, and remedy instances of government waste, fraud, and abuse in the national security departments and agencies. With respect to good governance, the Subcommittee has had a particular focus on: (1) fostering interagency cooperation, (2) rationalizing the defense budget, and (3) reforming the defense acquisitions process. In all of these endeavors, the oversight looks for solutions that both save money and enhance national security.

This included an annual vetting of the U.S. Government Accountability Office's *Assessment of Selected Weapons Programs*, with hearings as warranted, to ensure that the Department of Defense is aggressively working to implement Congressional reforms and reduce recurring cost delays and schedule overruns in major acquisitions programs. The Subcommittee also held recurring briefings and received testimony from the military services, Department of Defense officials, and academic subject matter experts on achieving sustainable defense spending.

a. Hearings

May 7, 2009, the Subcommittee held a hearing titled "GPS: Can We Avoid a Gap in Service?" Witnesses included Cristina Chaplain, Director, Acquisition and Sourcing Management, GAO; Major General William N. McCasland, Director, Space Acquisition, Office of the Undersecretary of the Air Force; Dr. Steve Huybrechts, Principal Director, Command, Control, Communications, Space & Spectrum, Office of the Assistant Secretary of Defense (Networks and Information Integration/Chief Information Office); Lieutenant Gen-

eral Larry D. James, Commander, 14th Air Force (Air Forces Strategic), Air Force Space Command, and Commander, Joint Functional Component Command for Space, U.S. Strategic Command; Karen L. Van Dyke, Director, Position Navigation and Timing, Research and Innovative Technology Administration, Department of Transportation; F. Michael Swiek, Executive Director, U.S. GPS Industry Council; and Chet Huber, President, On-Star Corporation.

On May 19, 2010, the Subcommittee held a hearing titled “Defense Acquisitions: One Year after Reform.” Witnesses included Mike Sullivan, Director, Acquisition and Sourcing Management, U.S. Government Accountability Office; John Roth, Deputy Comptroller for Program/Budget, Office of the Under Secretary of Defense (Comptroller); and Dr. Nancy Spruill, Director, Acquisition Resources and Analysis, Office of the Under Secretary of Defense for Acquisition, Technology and Logistics.

On July 20, 2010, the Subcommittee held a hearing titled “Rethinking our Defense Budget: Achieving National Security through Sustainable Spending.” Witnesses included Carl Conetta, Co-Director, Project on Defense Alternatives; Benjamin Friedman, Research Fellow, Cato Institute; Todd Harrison, Senior Fellow, Center for Strategic and Budgetary Assessments; Dr. Gary Schmitt, Resident Scholar and Director, Advanced Strategic Studies, American Enterprise Institute for Public Policy Research; and Dr. Gordon Adams, Distinguished Fellow, Stimson Center.

On July 28, 2010, the Subcommittee held a hearing titled “National Security, Interagency Collaboration, and Lessons from SOUTHCOM and AFRICOM.” Witnesses included John Pendleton, Director, Defense Capabilities and Management Team, U.S. Government Accountability Office; Dr. James Schear, Deputy Assistant Secretary of Defense for Partnership Strategy and Stability Operations, U.S. Department of Defense; Thomas Countryman, Principal Deputy Assistant Secretary of State for Political-Military Affairs, U.S. Department of State; and Susan Reichle, Senior Deputy Assistant Administrator for Democracy, Conflict, and Humanitarian Assistance, U.S. Agency for International Development.

b. Investigations

In July, 2009 the Subcommittee, in conjunction with the Subcommittee on Domestic Policy, initiated an inquiry into allegations of government surveillance of non-violent U.S. protestors and requested documents from the Defense Intelligence Agency. Subcommittee staff interviewed federal agents related to the allegations, reviewed substantial document productions from the agencies, and continue the investigation.

c. Briefings and Other Activities

- On June 24, 2009, the Subcommittee hosted a briefing by the Department of Defense on the Army’s procurement of Russian helicopters.
- On September 11, 2009, the Subcommittee hosted a briefing on Cuban migration.
- On May 14, 2010, the Subcommittee hosted a briefing by Gordon Adams on interagency coordination and budgeting.

d. Reports Commissioned or Requested

- On February 20, 2009, the Subcommittee received a U.S. Government Accountability Office report titled *Defense Management: Actions Needed to Address Stakeholder Concerns, Improve Inter-agency Collaboration, and Determine Full Costs Associated with the U.S. Africa Command*.
- On September 15, 2009, the Subcommittee received a requested U.S. Government Accountability Office report titled *Global Positioning System: Significant Challenges in Sustaining and Upgrading Widely Used Capabilities*.
- On September 24, 2009, the Subcommittee received a requested U.S. Government Accountability Office report titled *Defense Acquisitions: Many Analyses of Alternatives Have Not Provided a Robust Assessment of Weapon System Options*.
- On July 19, 2010, Chairman Tierney requested that the U.S. Government Accountability Office review DOD's efforts to build and streamline defense expertise within U.S. Embassies. That report is pending.
- On July 28, 2010, the Subcommittee received a U.S. Government Accountability Office report titled *Defense Management: U.S. Southern Command Demonstrates Interagency Collaboration, but Its Haiti Disaster Response Revealed Challenges Conducting a Large Military Operation*.
- On September 15, 2010, the Subcommittee received a requested U.S. Government Accountability Office report titled *Global Positioning System: Challenges Sustaining and Upgrading Capabilities Persist*.

5. Identifying Emerging Threats and Improving U.S. Grand Strategy

The Subcommittee made extensive efforts to identify emerging threats to the United States during the 111th Congress and worked to ensure that the U.S. national security apparatus devotes sufficient attention and resources to new challenges. This effort to focus attention on emerging and evolving threats is part of a broader campaign to ensure that U.S. grand strategy and global defense posture are forward-thinking. Some of the major areas of focus were as follows:

(1) International Drug Trade

The Subcommittee has conducted ongoing oversight of the national security threats posed by transnational drug enterprises and the increasingly violent drug wars in Mexico, the world's twelfth-largest economy, the U.S.' second-biggest trading partner and an important oil supplier. That violence is increasingly spilling over onto U.S. soil, and the U.S. Justice Department has called Mexican gangs the "biggest organized crime threat to the U.S." The Subcommittee has examined steps the United States can take on our side of the border to help stop the increasing border violence in Mexico.

a. Hearings

March 12, 2009, the Subcommittee held a hearing titled "Money, Guns, and Drugs: Are U.S. Inputs Fueling Violence on the U.S.-Mexico Border?" Witnesses included Andrew Selee, Director, Wood-

row Wilson Center Mexico Institute; Michael A. Braun, Managing Partner, Spectre Group International LLC, and former Drug Enforcement Administration Assistant Administrator/Chief of Operations; and Tom Diaz, Senior Policy Analyst, Violence Policy Center.

October 1, 2009, the Subcommittee held a hearing titled “Transnational Drug Enterprises: Threats to Global Stability and U.S. National Security from Southwest Asia, Latin America, and West Africa.” Witnesses included Eric Olson, Senior Advisor, Security Initiative, Mexico Institute, Woodrow Wilson International Center for Scholars; David Mansfield, University Research Fellow, Carr Center for Human Rights Policy, the Kennedy School at Harvard University; Douglas Farah, Senior Fellow, International Assessment and Strategy Center; and Dr. Vanda Felbab-Brown, Foreign Policy Fellow, Brookings Institute and Adjunct Professor, Security Studies Program, School of Foreign Service, Georgetown University.

March 3, 2010, the Subcommittee held a hearing titled “Transnational Drug Enterprises (Part II): U.S. Government Perspectives on the Threats to Global Stability and U.S. National Security.” Witnesses included R. Gil Kerlikowske, White House Director of National Drug Control Policy; Amb. David T. Johnson, Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement, U.S. State Department; Anthony P. Placido, Assistant Administrator and Chief of Intelligence, Drug Enforcement Administration, U.S. Department of Justice; Adam J. Szubin, Director, Office of Foreign Assets Control, U.S. Treasury; and William F. Wechsler, Deputy Assistant Secretary of Defense for Counternarcotics and Global Threats, U.S. Department of Defense.

(2) Iran

As Iran proves increasingly committed to obtaining nuclear technology the Subcommittee played an increasingly active role in the oversight of U.S. policy towards Iran. The Subcommittee also took strides this congress to increase the government’s understanding of the Iranian regime and opposition movement, political and cultural trends within the populace, and the significance of Iran for the region.

The Subcommittee also held a hearing on sanctions on Iran, focusing on the impact of sanctions across the policy spectrum. While recognizing the potential that sanctions may have to change Iran’s behavior, the hearing also included discussion of the sanctions’ limitations and the potentially adverse effects that sanctions could have on the Iranian population.

a. Hearings

December 15, 2009, the Subcommittee held a hearing titled “Iran Sanctions: Options, Opportunities, and Consequences.” Witnesses included Dr. Suzanne Maloney, Senior Fellow, The Brookings Institution; Dr. George Lopez, Professor of Peace Studies, University of Notre Dame; Amb. James Dobbins, Director, RAND International Security and Defense Policy Center; and Robin Wright, Jennings Randolph Fellow, U.S. Institute of Peace.

(3) Drones

In March, 2010, the Subcommittee held the first public discussion in response to public reporting about the increasing use of unmanned weapons systems to target al-Qaeda and Taliban personnel in Afghanistan, Yemen, and Somalia. The hearing also examined the implications for the current U.S. strategy in Afghanistan and Pakistan, U.S. national security and counterterrorism, military mental health, international law, and the future of war. In order to examine the Administration's legal rationale, articulated shortly after the Subcommittee's first hearing by State Department Legal Advisor Harold Koh, the Subcommittee held a follow-up hearing to receive testimony from four experts in international and national security law regarding the legality of unmanned targeting.

a. Hearings

March 23, 2010, the Subcommittee held a hearing titled "Rise of the Drones: Unmanned Systems and the Future of War." Witnesses included Dr. Peter W. Singer, Director, 21st Century Defense Initiative, The Brookings Institution; Dr. Edward Barrett, (Lt. Col., USAF), Director of Research, Stockdale Center for Ethical Leadership, U.S. Naval Academy; Kenneth Anderson, Professor, Washington College of Law, American University; John Jackson (Captain, USN Ret.), Professor of Unmanned Systems, U.S. Naval War College; Michael Fagan (Colonel, USMC Ret.), Chair, Unmanned Aerial Systems Advocacy Committee, Association for Unmanned Vehicle Systems International; Michael J. Sullivan, Director, Acquisition and Sourcing Management, U.S. Government Accountability Office; Dyke Weatherington (Lt. Col., USAF Ret.), Deputy, Unmanned Aerial Vehicle Planning Taskforce, Office of the Under Secretary for Acquisition, Technology and Logistics, U.S. Department of Defense; and the Honorable Kevin Wolf, Assistant Secretary for Export Administration, Bureau of Industry and Security, U.S. Department of Commerce.

On April 28, 2010, the Subcommittee held a hearing titled "The Rise of the Drones II: Examining the Legality of Unmanned Targeting." Witnesses included Professor Kenneth Anderson, Professor, Washington College of Law, American University; Professor Mary Ellen O'Connell, Professor, University of Notre Dame Law School; Professor David Glazier, Professor, Loyola Law School Los Angeles; and Professor William Banks, Professor, Syracuse University College of Law.

(4) Manufacturing

The Subcommittee took significant steps to assess the national security implications of U.S. manufacturing policy, with a focus on the security challenges posed by a shrinking defense industrial base and domestic supply chain. Manufacturing—including the defense industrial base—currently accounts for 12 percent of U.S. Gross Domestic Product and 10 percent of national employment. Yet, increasingly, the defense industry faces the proliferation of foreign-made and counterfeit parts, outdated technology, and a depleted manufacturing workforce.

a. Hearings

September 22, 2010, the Subcommittee held a hearing titled “Made in the USA: Manufacturing Policy, the Defense Industrial Base, and National Security.” Witnesses included Jeff Faux, Founding President and Distinguished Fellow, the Economic Policy Institute; Robert Baugh, Executive Director, Industrial Union Council, the American Federation of Labor and Congress of Industrial Organizations; Mark Gordon, Executive Committee, the National Defense Industrial Association; and Michael Wessel, President, the Wessel Group; Commissioner, U.S.-China Economic and Security Review Commission; and Senior Advisor, the Alliance for American Manufacturing.

(5) Cuba

In the 111th Congress the Subcommittee investigated the impact of current U.S.-Cuba policy on U.S. national security and evaluated the potential effects of increased U.S.-Cuba interaction on U.S. national security interests. The rationale and consequences of Cuba’s placement on the State Department’s State Sponsors of Terrorism List was also examined.

a. Hearings

April 29, 2009, the Subcommittee held a hearing titled “National Security Implications of U.S. Policy toward Cuba.” Witnesses included General Barry McCaffrey, President, BR McCaffrey Associates, and former SOUTHCOM Commander; Jorge Piñon, Energy Fellow, Center for Hemispheric Policy, The University of Miami; Rensselaer Lee, Senior Fellow, Foreign Policy Research Institute; Phil Peters, Vice President, Lexington Institute; and Sarah Stephens, Executive Director, Center for Democracy in the Americas.

(6) Briefings and other Activities

- On June 18, 2009, the Subcommittee hosted a briefing by the Department of Defense on U.S. overseas basing strategy.
- On August 28, 2009, the Subcommittee held a briefing on sexual violence in the Congo.
- On October 14, 2009, the Subcommittee received a briefing by John Ging from the United Nations Relief and Works Agency on Gaza.
- On February 3, 2010, the Subcommittee hosted a briefing from a high-level Kenyan delegation on the deteriorating security situation in Somalia and related, pressing security challenges for Kenya.
- On September 29, 2010, the Subcommittee held a briefing entitled, “The Effects of Demographic Change on Global Security.” This briefing addressed the emerging issues surrounding demographic security, which primarily focuses on the link between the age structure of a population and the propensity for conflict.
- On October 5, 2010, the Subcommittee staff received a briefing from the State Department on the State Sponsors of Terrorism list.

(7) Reports Commissioned or Requested

- In May 2009, the Subcommittee commissioned a Congressional Research Service report on intelligence oversight as it relates to Congressional Committees.

- On September 17, 2009, the Subcommittee received a U.S. Government Accountability Office report titled *Nuclear Non-proliferation: National Nuclear Security Administration Has Improved the Security of Reactors in its Global Research Reactor Program, but Action Is Needed to Address Remaining Concerns*.
- On October 27, 2009, Chairman Tierney and Ranking Member Flake requested a U.S. Government Accountability Office report on the Yucca Mountain Defense Department Nuclear Storage, which is pending.
- On March 25, 2010, Chairman Tierney requested a U.S. Government Accountability Office report on UAV export controls, which is pending.
- On March 29, 2010, Chairman Tierney requested a U.S. Government Accountability Office report on counterterrorism travel, which is pending.
- On March 29, 2010, Chairman Tierney joined a request by Senator Joseph Lieberman, Chairman of the Senate Committee on Homeland Security and Governmental Affairs, for a U.S. Government Accountability Office report on a counterterrorism safe haven strategy, which is pending.
- On April 25, 2009, the Subcommittee received a U.S. Government Accountability Office report titled *Defense Management: DOD Needs to Determine the Future of Its Horn of Africa Task Force*.
- On July 28, 2010, the Subcommittee received a U.S. Government Accountability Office report titled *Defense Management: Improved Planning, Training, and Interagency Collaboration Could Strengthen DOD's Efforts in Africa*.
- On September 24, 2010, the Subcommittee received a U.S. Government Accountability Office report titled *Maritime Security: Actions Needed to Assess and Update Plan and Enhance Collaboration among Partners Involved in Countering Piracy off the Horn of Africa*.

6. Ensuring Responsible Iraq Withdrawal and Reconstruction

The Subcommittee continued efforts during the 111th Congress to ensure that the U.S. carefully and responsibly manages the withdrawal of combat forces from Iraq and that there is sustained oversight of ongoing commitments and investments related to Iraq reconstruction. This included two investigations, three official visits to Iraq, eight investigations by GAO, and two hearings.

a. Investigations

In May 2009, the Subcommittee initiated a document request for all of the documents related to the withdrawal of a congressionally mandated Department of Defense Inspector General (IG) report. The report had been mandated in response to allegations that retired military officers working as analysts and commentators for certain media outlets were engaged in an organized public affairs campaign at the behest of the Department of Defense in the run-up to the Iraq War. Claims had also been made that officers were given access to classified information while also allegedly serving on the Boards or involved with defense contractors, resulting in an unfair competitive advantage for those companies. During January 2009, the Department of Defense IG reported that no wrongdoing occurred, but the report was withdrawn in March due to methodo-

logical problem. In response to the Subcommittee's requests, the Department of Defense IG agreed to reopen its investigation and rewrite the report thoroughly and properly.

b. Official Travel/Delegations

The Subcommittee led a Congressional delegation to *Iraq, Israel (including Gaza), and Kuwait on July 24–28, 2009*. The primary purposes of the Congressional delegation was to further examine the political and military situation in Iraq, to conduct on-site oversight of certain U.S.-funded projects in Iraq, to express personal gratitude to American service men and women deployed in Iraq, and to examine the security, political, and humanitarian dynamics of the Israeli-Palestinian conflict in the Gaza Strip. Specifically, the delegation examined projects built with Commander Emergency Response Program funds, including a hotel facility. The delegation was led by Rep. Stephen Lynch and also included Rep. Todd Platts, Rep. Brian Higgins, Rep. Joe Courtney, Rep. Mike Quigley and Subcommittee staff.

c. Briefings and Other Activities

- On June 30, 2009, the Subcommittee held a briefing by the Congressional Budget Office on the costs of Iraq withdrawal.
- On July 28, 2009, the Subcommittee held a classified briefing by senior officials from the Department of Defense on the pace, integrity, and costs of withdrawing military assets from Iraq.
- On March 12, 2010, the Subcommittee held a briefing by the Joint IED Defeat Organization on improvised explosive devices.

d. Reports Commissioned or Requested

- On April 21, 2009, the Subcommittee received a U.S. Government Accountability Office report titled *Iraqi Refugee Assistance: Improvements Needed in Measuring Progress, Assessing Needs, Tracking Funds, and Developing an International Strategic Plan*.
- On October 7, 2009, the Subcommittee received a requested report from the Congressional Budget Office titled *Withdrawal of U.S. Forces from Iraq: Possible Timelines and Estimated Costs*.